

## Closed Caption Log, Council Work Session, 06/26/12

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>> Mayor Leffingwell: Good morning, I'm mayor leffingwell.

A quorum is present.

I'll call this austin city council work session to order on tuesday, june 26.

2012, The time is 9:08 a.m.

Meeting in the city room in the austin city hall.

The briefings, b-1 and c-1, b-1 is the recommendations for the proposed 2012 bond election.

We'll take up first after -- i got one more thing to explain -- in item c-1 is a discussion of the 2012 election matters, potential direction.

But we can't take up either b-1 or c-1 until after 9:48 a.m.

Because these are addendum items and they're not posted.

48 and 72 hours has still lapsed until we can take those items.

So we're going to take up, first, item, excuse my, a-1.

Which is a council agenda -- agenda item -- thursday agenda item.

42.

To which is to approve an ordinance on the second and third readings.

Amending the code for the short term realm units.

The item 93 designated for discussion.

That counts for the.

So we'll take up for that item.

48 when we finish that, we will take up other agenda items.

48 to take up the bond election which you'll take up first.

It seems for those of you who are waiting for a discussion of the charter revisions, november 2012 proposed charter revisions, we probably won't take that up until after a lunch break.

So, with that, we'll go ahead and take up item number a-1 and we'll turn it over to councilmember morrison.

>> Thank you, mayor.

I had some different issues, specific technical issues and other things that I wanted to explore technical about the actual draft ordinance.

I have some questions that would involve staff and also some comments to throw out.

So I wonder if we have some staff perhaps as well as planning and development review staff to tell us about this aye techlt -- we had late-night input from a lot of folks and i raised several concerns concerning affordability -- impacts on affordability.

Impacts on the essence of our neighborhoods and schools, among other thing, potentially losing school populations especially in our center city.

I wanted to let you all know, my colleagues here, that at our joint subcommittee with the county and the school district last friday, when we were talking about educational impact statements, which we do jointly with the school district, one of the trustees brought up short term rentals and said have you guys thought about schools, have you thought about schools.

And, in fact, the eis policy that -- or a resolution that we adopted actually, you know, it led to the very specific eis projects that we do when we get a name change.

But it also had called for

[09:10:00]

looking at impacts on our schools when we're doing search engines to -- too.

So at that meeting, the staff and the school district staff said they would go off and short term journals saying they would get a report back by thursday.

I haven't heard anything back.

It would be interesting to get the school district input on that.

I have specific questions and concerns it raises for me.

In terms of 25-2-788, the same language in 789 when they're talking about short term regulation, type one and two, there's language I'm not clear exactly its purpose.

Under section a, it says this is for type I short term rental regulations, it says this section applies to a short term rental use for a period of 32 consecutive days, comma, not part of a multifamily use.

And is occupied and everything.

So my question is about what does that mean is not part of a multifamily use.

Does that mean that we're not allowing -- that these regulations don't apply to state condos and things like that?

>> It's not clarified because we create add new use and because of the section, we've defined where that use is permitted and conditional things like that.

That was meant to indicate as i think you're speaking of that the regulations that follow in 788 don't apply to a multifamily use.

They're focused on the single

[09:12:01]

family uses that I think most people have been most concerned about.

>> So, does that mean that if you have a short term rental in a multifamily use, there's no regulation under -- there's no special regulation that's just an allowed use.

>> I believe that would be true, yes.

>> That's important to clarify.

So if there are short term rentals in se a condo building, they don't have to register?

They don't have a license.

They don't have any --

>> I might -- oh, I see jerry is here now.

I might look to jerry for help on that.

But I should also indicate that the planning commission is specific when we discussed with them they wanted the regulations to apply to the single family uses that they were focussed on and do

not want us to -- admittedly in an earlier draft they affected multifamily uses and they made it clear to us that they wanted us not to do that.

We continue to try to do that.

>> Morrison: It may be that they're not enough.

And with buildings have restrictions prohibiting this.

They self-regulate and prohibit.

So maybe I'm wrong, but is there a place in here that would require registration of a short term rental or a licensing of a short-term rental that is, say a condo.

>> No, there's not.

>> Morrison: Okay.

So -- but we still do want to make sure they pay their hotel taxes and all, right?

>> That is correct.

As chad said, the focus of the commission was solely on single family.

Nothing this ordinance would proclues them or being occupied with state and city law.

>> Morrison: And they would also have to get a change of use?

[09:14:00]

>> No, don't have to get the change of use.

>> Morrison: When do you have a change in use.

That's a good question.

If they're a condo use and they become a short term rental use, is there a change of use requirement written automatically.

>> There's not a requirement for the change of use.

There's a statement for the ordinance that brent put in there that would pursue the need for a change of use in states so that you comply with the requirements of this ordinance.

But there's no longer -- there's not an additional step necessary to get a change of the use from our department.

>> The 3% proposal in the zip codes, our zip code boundaries don't line up with the city boundaries as I understand it.

I wonder if it's contemplating for the zip codes, a small portion of the zip codes in the city limits.

3% Of all -- how does that work, I guess, would be the question.

>> We could work with the city to establish the baseline number for every zip code.

We have the data, what's in the city, what's not.

We have it at a finer level than zip code as well such as census track.

We could take a zip code.

A portion of it extends to the census tracks in the city and leave those out that are not in the city.

>> Okay.

Does that have to be addressed in the ordinance?

>> No, I think that's part of the administration we can work on.

>> Limiting by distance so they were no more within 1,000.

Within 1,000 square feet, like bed and breakfast or something like that.

And one of the concerns that had been brought up about that was

[09:16:00]

that people would game the system and sort of register as a short-term rental to their own home just to prohibit everything within 1,000 feet.

So I wondered if anyone considered the possibility of doing the 1,000-foot but only counting nonhomesteaded registrations towards the 1,000-foot limit.

That way people wouldn't be able to game the system and sign up their own house if it's homesteaded, presumably, if they live there, they homestead it.

So you get a break on property taxes.

But that could be a mechanism to still maintain the 1,000-square feet -- the 1,000-foot distance which I think, you know, I'm -- I'M NOT SUPPORTIVE OF FTRs, BUT Trying to be practical about it.

Could help to allay the concerns of clustering.

Because it puts it on a finer scale.

Any thoughts on the matter?

>> One could game the system in the following way -- you had a house which although was not your homestead was used for long-term rental, you could register it as a short-term rental.

Not intended to use it for short term rental purposes for the purposes of prohibiting short term rentals within 1,000 feet?

>> Yes.

That would still be a possible -- I guess to me that -- it does.

It -- it is still possible.

But still I think worth considering because it's a significant amount of the people that might be perceived to be willing to game the system.

Yeah, these are the people that are living there and investigating their neighborhoods and concerned about the community aspects of it.

>> It would reduce the number of people eligible for gaming, i suspect.

>> Morrison: It would, I guess.

[09:18:05]

>> Spelman: How many units could one get.

I haven't done the math.

1,000-Foot limits, north-south travel distances, you could get 25 short term rentals inside of a square mile.

Is that about right?

>> You're better at math in your head than I am?

>> Spelman: 25 Or so.

More complicated than that.

I wonder how that would compare with the short term rental densities in the height in the areas like golden, the travis heights, and --

>> others will have to look at it.

Obviously from the administration standpoint, slightly more difficult to do the 1,000 foot spacing.

We have to take measurements.

But I think that's something we could look into.

But the data at this point is somewhat sketchy.

I think generally speaking with this ordinance a year from now, we'll have better information for everybody.

We'll have the registration.

A few people won't register.

We'll have a lot better data once this ordinance takes effect than we do right now as far as trying to guess how many there are in a certain area.

Right now it's anecdotal.

>> I have some additional points to make.

Let's see.

Also in section 25-2-790, the licensing requirement.

One of the number six is proof of property insurance.

I think that property insurance is often dependent in your actual -- in your actual policy.

May well be dependent on your use.

Like if it's owner-occupied versus rental.

Are you going to ask for property insurance that shows that they're insured as a short-term rental?

>> At this point, we're just looking to verify they had insurance.

[09:20:00]

I think that that would maybe be a bit more difficult.

Maybe have to talk to a few insurance companies to see how that works.

Obviously, we don't want to be in a position where I can't read my own words let alone someone else's.

So poring through that information would be a little more detail than I would want to.

But I think if I can talk to a few insurance agents and see how exactly that works, we'll find out more about that.

>> Morrison: I would appreciate that.

I think if we're saying we want to make sure these are sort of on the up and up, then property insurance may well have to be specified.

And the same -- the same goes for actually for mortgages, you know?

You get a mortgage as an owner occupied, it's very specific that you can only use it for owner-occupied spaces.

And I don't -- an owner-occupied space.

It's worth considering that also.

Would you be able to -- do you think you could look into a couple of --

>> we could check into that.

The city -- I'll look into the policy for a couple of insurance companies.

But, again, though, the city would not be in the -- in the business of determining whether somebody is out of compliance for the mortgage and out of compliance for the insurance.

But I'd be happy to check to see what generally speaking what the -- what the policy is for insurance companies.

>> Morrison: Okay.

And then the other issue that's been brought up is compliance with ada.

And the potential -- potentially a requirement for these to comply with ada.

And I wondered if you all had a chance to look at that.

>> Nothing in this ordinance that -- ada is a federal law.

And nothing in this ordinance that would, again, would require or exclude somebody from a requirement of federal law.

My understanding of ada is for

[09:22:03]

the most part it's a -- I don't know if it's a legal term, but it's a civil matter.

Somebody is not complying, every year I see on tv, it goes after a couple of businesses in town that are failing to comply with, in their opinion, the law.

They take those businesses to court.

If somebody was -- if somebody thought that a short-term rental or anybody was not complying with ada, they have the opportunity to take them to court under the existing law.

But there's nothing in this ordinance that states that somebody does or does not comply with the ada.

>> So, could we hear whether or not these do fall under ada and must be accessible?

>> Assistant city attorney.

And councilmember morrison, ada provision that I believe you're referencing places title and accommodation in private residence does have applicability to some of the short term rentals.

It applies privately and it's not one that the city has a responsibility or authority to enforce at the permitting stage.

There are definitely parts of the ada that do apply to the city.

There are others that apply to the cities, but as jerry mentioned is not one applicable to cities.

>> Morrison: Are you saying we don't have the authority?

To me, it needs to be made clear if we're essentially allowing a new use in town that could convert many, many buildings that need to be ada compliant.

I guess there's very few of them.

Are you saying that we're prohibited from requiring it?

>> We can't directly enforce provisions of the ada.

But we can incorporate in this

[09:24:01]

provision is not directly enforceable by the city.

But the city has the authority to incorporate ada-based provisions into its code.

And has done so with regard to requirements for new construction.

There definitely is a level of ada compliance that is built into some of our construction codes.

And this question was raised a few days ago.

And unfortunately, the main person in the building department that I want to speak to on these issues has been gone the last few days.

But generally speaking, I'm confident in what I've just said.

>> So you're saying that we could, in fact, have, for instance, we could add under 25-2-790, license requirement.

We could ask that they include a certification that they're a.d.a. compliant.

>> Yeah, I don't think there's a -- would be a legal prohibition against that.

>> Okay.

I think that's significant that if we are knowingly opening up these businesses to a new kind of use and they are required to be ada compliant, you know, in terms of our knowledge and our willingness to be come police it in nonada compliance, I think it would make sense to add something under 790 that asks for a certification that they're ada compliant.

>> Yeah.

>> Mayor Leffingwell: I believe councilmember tovo had requested, didn't you?

Did you want to speak on that?

>> Spelman: I think she --

>> Mayor Leffingwell: Spelman?

>> Spelman: I wanted to ask about the ada compliance issue?

>> Mayor Leffingwell: Sure.

>> Spelman: I understand that motels and hotels have to be ada compliant.

I understand that long-term rented residents do not have to be ada compliant.

Where do short term rentals fall?

Do they need to be compliant with the ada or do we know?

>> There's a provision to the

[09:26:00]

ada that speaks to when public accommodation is in a private residence.

It kicks in in situations where you have the home occupations where there's waiting rooms and it's made available for on going accommodations for public accommodation.

My review of these issues is still on going.

However, based on everything that I've seen, I think that there -- it would definitely be a case to be made that short term rentals to the extent they're open to the public and advertised for rental would trigger this provision.

However, again, it appears to be a private -- a private provision that applies only to the homeowner and not one that the city has the responsibility to police or enforce.

And generally speaking, as i think was mentioned, existing single family homes are not.

The city, you know, has some ada requirements that are built into the codes for new construction but existing homes are just in use.

The city does not enforce through the own code or otherwise in ada requirements.

>> Is the comment I made a moment ago accurate.

If someone is renting a house on a long-term basis it's not public accommodation, and therefore does not have to be ada compliant or community compliance with other existing code.

>> I do think that's correct.

I want to emphasize the issues that have come up in the span of the last few days, a critical person in the land department that I believe will be back today that I want to consult with.

To the extent that these questions are in play on thursday, will be a more thorough answer.

>> Thank you very much.

>> A couple of items that i wanted to address.

[09:28:02]

You know, one of the concerns is enforceability of this ordinance.

And I know in some other cities, they wrote into the ordinance that the act of advertising of a short term rental was evidence that you were a short term rental.

Is that something -- and I think the word is prime facia.

Is that a legal word you guys use?

Is that something we could consider putting into this ordinance so that it would -- it wouldn't -- it would essentially make it that, hey, if you're out there as a short-term rental, we know you're a short-term rental.

>> We could certainly include a statement to that effect, how it would be regarded by the court is, you know, beyond our control.

But definitely evidence of that that use is in fact ongoing.

So we can include that.

>> And then the last thing i wanted to mention is I know that the planning commission had included in their long and arduous -- the results of their long and arduous process that they addressed gatherings.

And I think that they basically said gatherings are prohibited, not that they necessarily defined gatherings which is a concern.

But I know b&b's prohibit gatherings or limit gatherings.

I wonder if you could describe how b&b's gatherings and see if we can consider some language that might also come in to play here.

If you want a gathering at the

[09:30:01]

b&b can conditionally use the permit.

They can use the permits the number of attendees that can be gathering the number of parking spaces that are available at the b&b.

So if you have an additional public hearing step and you have the cap based on the number of parking spaces.

That's not defining what the gathering is.

>> Potentially we could -- in this ordinance, we could move that, copy that language and insert it to this -- also be -- would it fit in?

>> It could be in the ordinance.

It would still be appealable to the city council.

You may find yourself in position to decide whether an individual home which uses a short-term rental may have a gathering or not.

>> Morrison: Is that on a -- is that conditional use permit for a one-time thing?

Or does it just depend?

>> It would run where with the property.

>> Morrison: Okay, I guess we could define gathering in terms of numbers or something like that?

>> We could.

>> Morrison: Okay.

>> And I believe those are all my thoughts right now.

>> Mayor Leffingwell: Councilmember Tovo?

>> Tovo: Thanks, I submitted questions to the q&a process and threw them out here in case you have answers for them.

So the proposal brought forward by councilmember Riley was talking about a 3% limit per zip code and we heard questions of zip code.

I wonder if you can give us numbers of how many short term vacation rentals that would be allowed throughout the city.

>> We did get your questions yesterday evening.

I did not have that data for the entire city.

We have the demographer looking at a few particular zip codes

[09:32:00]

looking for the higher PERCENTAGE OF THE SDRs BUT WE Don't have the whole city.

>> Do you think it's possible to get by thursday both the total housing stock in austin and what that would look like zip code per zip code how many vacation rentals will be allowed in every zip code across the city.

>> I asked our demographer to work on that.

Not sure that it will be done by thursday but it he's working on it.

He's busy with both right now.

>> Tovo: Is he here right now?

>> No, not right now.

>> Tovo: Because I do want to -- want to follow up on him perhaps on thursday about the discussion regarding clustering.

>> He'll be available on thursday.

>> Tovo: And then I know that the planning commission worked on this for two years.

We haven't had much discussion.

This is directed to the colleagues, we haven't had much discussion on the recommendations they proposed and they have the opportunity to do that today or thursday.

But, you know, I can't say this with great accuracy.

I can see that in various ways they are submitting the number of rentals and probably zip code is something they did consider and opted against.

Can you fill me in on --

>> I was involved in the multitude of meetings on a long period of time.

The zip code idea, I cannot recall the zip code idea ever coming up.

There was, I said, an attempt to limit the number.

Spacing isn't an issue.

Clustering wasn't an issue.

The only specific proposals that I remember is the one that ended up in the planning commission ordinance which was the thousands foot space and those spaces lifted from the b&b ordinance.

>> With regard to the b&b ordinance, how long have we had a b&b ordinance.

>> I have to check the exact date.

If I recall, it's from the mid 1990s.

>> What's some of the rationale

[09:34:01]

if you can help us understand what the rationale was for having a spacing limitation on this?

>> If I recall correctly at the time, there's a proposal for the new bed and breakfast in the old neighborhood and resistance to that bed and breakfast coming in.

So there was a pause and a stake holder group put together including hope owners of the bed and breakfast put in.

And my understanding, they all came together with neighborhoods as well as some b&b owners and they drafted the ordinance which they have right now.

So in a way, it obviously don't -- make sure they're 1,000 feet apart and you don't have a cluster or two together.

It was benefit to the people who HAD EXISTING B&Bs IN TOWN Because it was a limit to the future bed and breakfasts.

>> There was a concern about clustering and how that might impact the residential character of the neighbors surrounding those that might be converted into.

>> That's one of the reasons they had to confirm the 1,000-foot spaces.

>> There was a review of ordinances.

This is a review we talked about earlier.

We talked about regulations and some have banned vacation rentals.

And I would like to get some information about how many have adopted a geographic spacing requirement and, again, some of the rationale for their doing so.

Do you --

>> I don't have that information available right now.

>> Tovo: Do you have a sense of what organizations are like in our discussion in the last council meeting, I quoted from the American Signaling Association article about -- talking about some of the concerns that we've addressed here.

But do you have a sense of what some of the planning thoughts are on the vacation rentals and what the long-term impacts are and in terms of the impact on residential neighborhoods.

[09:36:00]

Are there any articles that you might be able to share with us between now and Thursday?

>> We can look.

I think a lot of the testimony that we heard and that the restrictions we did was similar to the public testimony that you heard at the first reading.

I mean there are -- on the one hand, they're a benefit to the community in the sense that they track visitors that bring tax dollars, provide alternatives, type of places for people to stay.

Provide the place where people have families and places to stay.

Cheaper than renting multiple hotel rooms, paying hotels, etc.

And there are concerns about, you know, you're here on Thursday -- from Thursday to about, you know, maintaining a neighborhood fabric and making sure you don't have, you know, too many particular areas as far as people wanting to -- have neighbors that say no.

>> Tovo: Mm-hmm.

And just a couple of questions about -- about what you just said.

And what we've heard before.

You know, in their extensive two-year review and discussion with stake holders, does the planning commission review any evidence that actually suggests that short term rentals in and of themselves attract visitors to Austin?

>> I think we obviously didn't have any empirical data and such.

I think that if you provide an alternative place in a type of accommodation that that type of accommodation may attract someone who is not attracted to another accommodation.

>> I guess --

>> you get family, you want to stay in lake austin, you can rent a house on lake austin.

You may decide to come here.

Or if you have to stay in a hotel in downtown austin and rent two rooms to accommodate your family and drive to the lake, you may decide not to do it.

I think there's -- there's no hard data that I'm aware of.

I think it's just one more option for people that they may -- may take advantage of.

[09:38:02]

>> Tovo: Yea, I guess it would agree that it's an option that may appeal to certain kinds of travellers.

But I'm not sure that short term rentals in and of themselves attract people to austin.

I think they -- I think they attract people to that kind of accommodation over another kind of accommodation here in austin.

I think it's interesting to know if there's any other kind of national studies that would eliminate this question for us.

Whether we're just taking travelers out of traditional hotels or longer stay hotels and putting them in residential areas versus actually bolstering our tourism economy.

A lot has to do with what they're going to do when they're here and what kind of accommodations they're going to stay in.

And the other thing is whether or not the planning commission did any research on the cost.

Because we have heard that short term rental -- that vacation rentals offer people a more inexpensive way of staying than hotel rooms.

But I wonder how they compare to -- one, I would say looking at the short term rental prices I've seen, they can be costly.

Two, I wonder how they compare to places like homestay suites or some of the other places that offer families as an opportunity to offer the kitchen.

They offer sometimes the separate bedroom.

They offer more space and a hotel room than I would think would be comparable to a vacation rental in terms of price, perhaps even cheaper, actually, because you're renting not a whole house, but you're renting in essence a suite, a hotel suite.

Did they do any kind of comparative data to determine --

>> we do not.

We have the same information you referred to.

Generally speaking, they cost more than your average hotel room.

But of course they often have multiple bedrooms.

So what we heard is obviously if you had a larger family, maybe it made more sense than renting a pair of hotel rooms or if you just want to live in -- if

[09:40:00]

you're staying in the place for a longer period of time such as a person working on the film and stuff like that, do they like the conveniences of living in a home as opposed to, you know, having a laundry room, a , that you may or may not have in a hotel room.

>> May have available in a homestead suite or something like that?

>> The last information, I think there's -- people have opinions about that, but I'm not aware of hard data.

>> It's important.

This is sort of directed to my colleagues.

We have heard from advocates of short term rentals because we need them to promote tourism in austin and offer alternatives to people who have children who can't stay in traditional hotel rooms and various other kinds of anecdotal evidence.

We have a range of hotel options from one room hotels to suites to places that offer kitchen accommodations and others.

So I think with or without vacation rentals, you have opportunity for people to seek out various kinds of accommodations.

And I think they'll still come to austin regardless of how they act on thursday and however they take this up.

Not to mention we have all of the proposals we've been considering whether it's councilmember riley's or the planning commission, or, frankly, the one that councilmember morrison brought forward at our meetings, all allowed the homeowners to bring the properties on a short-term basis.

We'll have many opportunities for the vacation rentals with or without allowing commercial short term rentals.

You're frowning.

Did you have a question for me?

Okay, anyway.

I point that out.

So, I wanted to get back to the clustering question.

And I see our city demographer here.

If you're comfortable, I'd like to ask you some questions about

[09:42:00]

that.

The proposal -- the planning commission brought up does address this issue of clustering.

This isn't just an issue that's arisen in the Austin discussion.

It is one that we've seen in other municipalities that have confronted some of the long-term challenges of having -- allowing this commercial use in the residential areas is the fact that that might cluster together.

The planning commission recommendation that we've got addresses this and I think proposes a reasonable solution.

The proposal that is on our agenda for Thursday does not address clustering and does not address the spacing issue.

That was a very serious concern.

And I would urge us all to think carefully about that.

Robinson, can you talk a little bit about clustering and your thoughts on it and what you think about some of the other members and some of the early data on this.

>> One of the data questions -- Brian Robinson, Department of Planning.

One of the data questions that you're receiving is working on -- what would be used as a denominator if you want to look at the number of units per zip code.

I think a good example to differentiate total housing stock versus single family stock, if you look at 7704, there are a total of 23,000 housing yubts roughly.

23,000.

If you take the 491 short-term rental examples, events, recorded by the auditors' office in '04 and do that math, it's under 2%.

But if you look at just single family detached units in '04, that 23,000 goes down to 7200.

So if you use 7200 as the denominator in that equation.

That cobbs traces -- that

[09:44:00]

7% or 8%.

That's one crude way to talk about clustering.

My own sort of professional opinion is I don't know if too many is too many.

That's going to be someone that we struggled on in the staff.

It's how you quantify that.

How do you describe.

How many is too many.

Look at the extreme example like the city of san francisco, california.

Got so many of the short term rentals that it's over half of the existing housing stock in some neighborhood.

So certainly that is too many.

But it's the kind of thing that I think that jerry made a good point.

As we move forward, we'll be able to refine the data we have.

A better sense of the 1,000-foot butter issue that will be tricky to calculate.

I know we can give you total units.

Total single family units.

Not just by zip code, but if you wanted to look at the neighborhood planning area, we have that available.

Of course it's a smaller geography than the zip code.

So those are the rambling thoughts on how to quantify clustering.

>> If you say it would be tricky -- the 1,000 foot would be tricky to calculate, are you talking about the question that I submitted through the q&a process about how many we could -- how many vacation -- short term vacation rentals could result from 1,000-foot buffer.

Is that what's tricky?

Or would you say it would be tricky to figure out whether somebody was within 1,000 feet of another short term rental.

>> Let me rephrase it.

It's not tricky.

It's more time consuming.

I want to spend more time with staff talking about what that is.

A straightforward calculation in the same way we do b&b.

So that's not as tricky, maybe, as I want to make it out to be.

>> Tovo: Because after that, I would assume you do that as part of regular zoning the b&b industry?

>> Right, we have other things that have spacing requirements,

[09:46:02]

school, alcohol, and adult businesses.

The administration of the 1,000 foot spacings have a couple of things but we do that all the time.

The question is how many can you put in a town of 1,000 foot spacing is a difficult question.

It's a hypothetical.

We don't have today all of the locations of the b&b or the short-term rentals.

We have the auditor's data.

Until we have folks registering, we don't know where they all are.

How many would be allowed, how many would not.

So, you know, some of the ones that are in the report would have to fall off, etc.

So that's a hypothetical that could not compete.

>> I think the basic point is that if we had 1,000-foot requirement as is consistent with our b&b ordinance, as is consistent with the planning commission recommendation, and in my opinion would do the best job of promoting what we want to see here, diverse house hold types within our neighborhoods, the staff can make that work.

You could figure out how to implement the 1,000-foot space limitation when people come to you and say we want to register this property as a commercial short term rental.

>> We can figure it out.

There are issues such as the initial strangle, two within 1,000 feet.

Who gets to go, who doesn't.

Things like that.

With know I how to administer the spacing department.

>> We may need to talk about the amnesty provisions or something like that if uh youer within 1,000 feet of an existing run as of june 2012 or something like that.

Again, I want to get back to the clustering issue.

This is an obvious question.

I'll ask it just in case anybody doesn't know the answer.

How closely do zip codes attempt

[09:48:03]

with school zone boundaries?

>> Hit or miss.

Zip codes are large, elementary school boundaries are smaller.

If it's just correspondence, it's just low incidence.

>> 3% Of the housing stock being short term rentals and they all fall within the zone.

>> Theoretically possible.

>> Tovo: If you look at the auditor's map, you'll see what they are -- what we already have is clustering in travis heights and some areas that all fall within the same attendance zones.

So to me, that's a critical flaw in the direction we're going.

We've had a series of school close euros in our central city and mostly all made a commitment to becoming the most family friendly city in the country.

The council has on various occasions talked about the importance of aids and the city working together to sustain our central city schools.

And in my mind, this really flies in the face of that effort.

So to get back to the question that was raised -- and I guess i want to get back to the is.

robinson, you had talked about the census data.

And I summarize -- I parafratzed it a few times, I'd rather you just said it yourself.

Can you talk a little bit about the census data and the way in which the short-term rentals raises questions about the data.

>> The population change we made was for 2010, the small areas, the census track level which was

[09:50:00]

in that neighborhood.

In that map, it's surprising to a couple of ways.

We put together a list of potential reasons as to why we didn't see uniform population growth across the whole city.

Why it's so lumpy.

And, of course, some of the reasons are straightforward.

Housing construction activity and other census tracts.

Mueller was downtown, west campus.

But what was a little more mysterious at least to me was why we were seeing in many cases shallow population laws in core zip codes?

North central city, south '04 was a good example.

So one of the reasons, not in any way a paramount, you know, reason.

But if you were to build a model and have explanatory variables, one of the most explanatory variables would be the housing stock is so much more expensive in the city.

Families have an increasingly difficult time affording that.

That's the issue that the council deals with all the time.

Other issues at the top of that list are long term large scale racial and ethnic change.

Hispanic families tend to be much larger.

Down to the bottom of this list, I think, the effect of the displacement of households by commercial short term rental is also a factor.

To me, in my mind, all you really have to do is come up with one example of a displaced household where the argument becomes true.

And you need to focus on that reasonable zone of, okay, let's talk about magnitude.

Then again, it goes back to clustering.

It's difficult to know when too many is too many.

But I think at some point it's one of the things that we sort of see it when we agree that we

[09:52:01]

were looking at it.

The census data to my mind is at the origin of why we began to at least on the demographic side kind of raise a couple of flags.

This is something that could get out of hand.

And then back to your original question about the zip code, for what it's worth, I agree.

That's really too large of an area to use -- to supply the denominator.

And we can give you that same information just have to offer something up at the neighborhood planning area level.

7704 Has eight, nine planning areas, something like that.

So you get a much tighter description of where the phenomenon is.

>> Great.

Thank you.

>> Tovo: Glad you say that.

Appreciate it.

Back to the question of the educational impact statement, is that something -- this is -- you know, in part, this is a very good example of the code amendment that was contemplate in the educational impact statement.

And we wondered a little bit about what that might look like to do an educational impact statement for a code amendment.

But again the resolution does seem to require one.

So will we have one?

>> As you know, with regard to the resolution, we created a process that was basically project specific.

It looked at individual zoning cases, site plans, saying this is going to be adding this many kids to a particular school zone, what does that mean?

So we contacted aisd.

They let us know the sites of the project.

They tell us what the impact is going to be.

We have yet to use a similar process for a code amendment.

I will contact aisd prior to thursday.

We'll let you know what they say.

However, I'm inclined to believe that it's going to be a very difficult -- a lot of the things with regard to this issue to come up with hard empirical data as far as what the effect is going to be.

[09:54:00]

I have a feeling they're going to tell me when it comes to deciding whether hypothetically taking 3% of the housing stock off of the -- out of the school zone, what the impact of that is.

I think there's probably a multitude of variables that would factor in to whether those 3% of the homes would have children attending the schools or not.

Things such as the reputation of the local schools, the price of the housing stock.

The price of the housing stock.

Whether there's back yards available, things like that.

It is a short term rental.

It's not a house that is necessarily geared towards families.

I think that we'll contact them.

We'll see it's difficult to say with certainty that it's a positive or negative impact on the school district.

>> I would say that the aim is meant as a tool of guidance and never any certainty to it.

Just because we ask developers what kind of units they're going to craft when they're developing three-bedroom units, doesn't mean we're going to get 50 out of that project.

It's a tool of guidance.

It's very important to have that conversation because we know from the trustee schneider's comment last week to the joint subcommittee that the trustees are hearing about this issue as well.

It was triggered by an e-mail he received expressing concern that vacation short term rentals were going to exacerbate the pressures on our central city schools.

If we look again at some of the articles perhaps even the court case that has been cited, there have been our public has come out to testify.

Whether or not it's the one to raise the issue.

[09:56:00]

The vacation short term rentals in residential areas can impact school attendance and vitality.

So that I guess it's really incumbent on our council to make sure that the conversation happens and if it can't happen before thursday, that we delay voting on this.

Until the school board has had an opportunity and the school staff has had the opportunity to provide us with input.

>> We have a couple of inputs on that.

>> Tovo: Thank you.

>> Mayor Leffingwell: Mayor pro tem?

>> Cole: You haven't had any direct discussions with the school districts on if the impact on the population of students attending aschool?

>> Not to this point, no, we have not.

>> Cole: Okay.

I think it's important to communicate if there is a concern about that, of course, we want to know about that.

And my initial feeling is that it's going to be answered theish the answer is going to be we just don't know yet.

But have you done, especially in 78704, the calculation for exactly how many house holds that would involve?

Has that been done?

>> As far as the hypothetical number under the proposed ordinance or --

>> Cole: Under the proposed ordinance.

Trying to figure out for example if 3% of 78704 is 30 house holds and that would -- the 3% has not been reached but we're at 15.

How big of an imminent problem do we have?

>> I believe as ryan stated, we do have the information on the number of detached residential house holds by zip code.

[09:58:00]

They looked at the 78704 thus far.

And at this time, the only data we have this far is the number of short term rentals in the zip code is the number that the office gave us which I think that data changes over time, you know what I mean?

And once we have a registration process, who wants to do it seriously versus who's throwing their home on craigslist fishing, hoping to land some frenchman for one.

The I think we'll have better data then.

We could tell you right now the hypothetical was what's 3% of the detached units?

>> I'm trying to figure out if we are in the particular zip code that we know that are we at 2%, 1%, or not at a percent at all?

>> Councilmember -- I hate to always answer it with a "depends on" if we use the total number of housing units in 78704 currently at 2%.

So 491 in '04, let's say it stays constant, but if you use the denominator just detached single family structures where i think the single family structure is we do that way.

That seems to be where the phenomenon is more often, that pushes the current percent almost up to 7%.

6.8%.

So it's whatever you use as the denominator, total units gives you only 2%.

Just single family takes you up to 7%.

Given the auditor's count.

Does that make sense?

>> Yes.

I wanted to make sure that at least we have clear direction in some of the information that we want when you talk to aisd.

Which is that we right now and made a % change, what's the impact on that as opposed to the additional 3% change that they clearly understand your question in terms of and what impact that would have.

And in that analysis, you would have to look at also how many of those homes actually have school-aged children in that particular zone.

What were they on the closure list actually.

Do they have a lot of transfers there anyway.

We can't look at the school district and make sweeping generalizations because even within the central city, there's a lot of variation within the east side schools and the west side schools and the schools that got on the list of what particular boundaries are and what that school is and what's affecting that.

But there's a lot of things that ryan pointed out which is, of course, affordability.

But it's also the quality of the schools and high quality of the schools is not even in central city being not wanting to be attended.

They have high transfers, but aisd is faced with boundary issues because of basically the traffic that a particular family wants to make in our decisions about short-term rentals, we needed to know whether that's a minor impact or if it's a major impact.

As a general matter, when federal law speaks, we are preempted from taking any action.

Require registration or in the permitting process to impact ada compliance that will get us in any type of conflict of federal law potential litigation.

So I just want to get a direction that as we look at that that we pay close attention to what the basic rules are.

And I know that you know them.

But consider still the direction that councilman morrison gave.

Are you clear on that?

>> I'm definitely -- you know, i agree with the principles that you just articulated.

But the -- there are portions of the ada that apply to municipalities, that apply to municipal programs, buildings, facilities.

And there are parts of the ada that apply privately.

And the provision that has been applied.

We heard the council's issues and it's my intent to consult with the building official on these issues and we'll be able to address your concerns more thoroughly on thursday.

But in principle, I think everything you stated is correct.

But the ada has provisions that are private provisions that are public, and the one that's at issue this morning is one that applies privately.

>> Cole: Okay, thank you.

>> Mayor Leffingwell: Councilmember morrison, I would suggest we have passed the time.

We need to take up our bond now and our charter staff and come back to this and we anticipate more discussion.

We do have a lot of folks waiting here for the bond charter discussions.

Councilmember morrison?

>> Morrison: I have one brief comment in question.

And the ordinance that we're talking about contemplates calculating it the way you're talking about.

And in '04, it would currently come out presumably to be 7%.

And you mentioned '04 is a big area and there's a neighborhood plan area.

And my guess is that the are -- that 7% is actually a lot higher in some of the areas than others.

The areas in '04.

That's something that the idea of amnesty has been thrown out several times.

But if we are talking about allowing 10%, 15% of our housing stock to be legalized as short term rentals, that is really significant.

That is a major, major impact.

So those numbers would be helpful if you could get them by thursday.

>> We can.

The number will get higher because the area will be smaller.

Withe have it in place.

We'll get it by thursday

>> Morrison: Thank you.

>> Mayor Leffingwell: Councilmember rooily?

>> Riley: You say 7% in '04.

Are you referring to nonrenter occupied rentals or all rental s?

>> That's a good question.

The answer is what goes in to that 491.

>> It will be the qualify for the cap.

Not the owner occupied.

Brian has been using the best data we have now which is from the auditor.

From the good data at the time it was taken.

But it's actually the people who are registered who are serious about this as far as paying a fee, registering, possibly getting an inspection.

We'll know the true number of TYPE IIs WITHIN THAT PARTICULAR Area.

The number isn't broken down accurately in my opinion.

>> Not sure what that answer was.

>> I don't either.

>> Previously when I had -- very different answer from the auditor's office.

Based slowly on nonowner occupied short term rentals.

Not at 3%.

Much less 7%.

I'm curious to why the numbers are so dramatically different than the auditors' numbers.

>> Of the 491, how many of those are as jerry calls them type two are not the owner occupied.

I think to me the variances coming from the auditor's office probably did the numbers in the zip code and only within the last couple of weeks have we honed in or had the sense that we're moving towards honing in on just the single family.

>> Odd that we could get radically different numbers.

>> To me, the 491, we take that straight from the auditor's office.

But they have given us the raw data that they collected and that they geocoded.

They have since given it to us in sort of a raw form.

But we had that.

>> Riley: We requested that on the planning basis.

I hope we get better data by thursday so we can all be on the same page about the numbers we're talking about.

>> Mayor Leffingwell: Councilmember tovo?

>> Tovo: Just one last query, i guess, for thursday.

I appreciate pro tem cole bringing up the schools.

This begins to point to the way how we might do an educational impact statement for this issue.

If we look at it by neighborhood planning areas but if we looked at the data by attendance zones, we could get a sense of how this ordinance might impact certain central city schools.

And so I plan to submit a question through the q&a process looking at a few of the schools that I know have had challenges in the past with enrollment, like becker elementary within the bouldin creek.

That's one area that's seen an increase in number of vacation rentals.

Inspired by your comments, the impact of certain neighborhoods will be different from other neighborhoods in terms of their school, 1% in certain neighborhoods could have a big impact on that school.

3%, You know, could devastate it.

8 Is very high, we look at that high by attendance zones.

We look at the impact, how many are located, clustered right around barton hills relying on 50% transfers right now to have your moment, I think we can start to see a different picture.

I appreciate this conversation.

It's absolutely critical.

>> Mayor Leffingwell: Councilmember riley?

>> Riley: We got ahold of the short term rentals in april.

If you look at exhibit four on page five, it says on 78704, there are 171 owner occupied SDRs, 127 NONOWNER OCCUPIED.

You're using both owner occupied and nonowner occupied.

The entire universe of short term rentals.

That's how we got the different numbers because the ordinance we're talking about does not include -- does not speak to the entire universe of short term rentals because you're mixing apples and oranges in including owner occupied and nonowner occupied.

There is still uncertainty going to the fact that the biggest subset is the ownership is unknown.

With have anecdotal reports that -- that that group seems to be more of the owner occupied than the nonowner occupied.

But I created -- it would be helpful to get additional uncertainty on them.

Clear that it's not up to the 7% that you're referring to.

>> Stand corrected.

I would assume all of those are type two.

I apologize.

>> Thank you.

See you thursday.

Go ahead with the briefing.

>> Thank you, mayor.

Staff and I appreciate the opportunity after so months to be back in front of council to talk about the proposals for a possible bond program in 2012.

Of course this effort and undertaking began six months ago at the beginning of the year.

Some of you know from previous experience what kind of undertaking and task this is.

And how much work is involved and all of this.

So I want to begin today by first starting just with some expressions of appreciation to my staff and in terms of this effort regarding the bond program and in particular, mike trimble who headed the staff team supported by assistant city manager robert goode.

And, of course, wanted to acknowledge and thank the bond task force.

And I suspect some of the individuals are in the room present here today as well.

You know, when you have -- you try to put together a capital program and a municipality, I'm not just talking about austin, I'm talking about other places I've been, it's never an easy task.

The primary reason is because cities always have an incredible amount of needs that ultimately, and very quickly, you know, people realize that you can't afford to do everything, which makes prior authorization challenging and certainly that's true here in austin.

In fact, when this process started, the initial needs assessment came to a total of -- a total but it was in the multibillion dollar category.

And the initial effort was about refining that.

And staff was able to -- and others were able to do that in 5 billion initially.

That's when the hard work began.

In that context, what we're going to see in the course of the presentation to there, there are several program funding levels, all of them are in the binders that were placed before you today.

And in just a little bit, mr.

Trimble is going to take you through those various programs in some details.

All of the programs that you're going to hear about today offer an opportunity to review a mix of projects that help guide you -- helped guide this council in making the decision on the final bond package.

In terms of the staff recommendation, we -- obviously we have a lot of things that we needed to keep in mind.

But I certainly want to emphasize a couple of them that we were mindful for as we developed our recommendation.

One of them is that we wanted to present a package to council and the community that represents a constant debt service tax rate, or no debt service tax rate increase.

And so we were mindful of that in offering our representation that we're going to hear about here shortly.

And also we wanted to limit our bond funding for this program with the understanding that there may be a future program for urban rail.

So we were mindful for those two things in particular.

In particular, a lot of other issues in that binder as i talked about several programs, we're going to see programs at the \$200 million level.

You're going see a program at the \$300 million level.

A couple of programs at the \$400 million level.

One at \$575 million.

And we're going to see our recommendation which the staffer recommendation is that the \$385 million and again does not require any increase in the debt service tax rate.

As a starting point today, i wanted to mention again mike and his teams, their efforts.

Of course their efforts and certainly the task force efforts began with utilizing councils, guiding principles that you adopted early nonthis process.

In fact, I think you adopted them even before we had the task force in place.

And they were critical and fundamental to the balance of the work that needs to be done to get to the various programs you're going to hear about today.

They're going to use it to assess the need identified and used to refine and prioritize the various programs.

I want to emphasize that in our view, and we see this as a starting point today for your conversation regarding the bond program, as I said before, that the community as any city does many, many needs.

If you go through a process like this in any city, I have never known of or been aware of any absolute science, if you will, for developing a prioritized list of projects.

So our hope today is, again, that you embrace this.

Receive this as a starting point that you will use it as a means for both informing and guiding you in your decision-making process as you move towards a final decision regarding a bond package for 2012.

There will be other opportunity after today for public input.

A PUBLIC HEARING ON THE 2nd, AND You have scheduled a work session august 7.

At which time I think the hope is you'll be in a position to finalize your program and the language that you would want to place before austinites.

Several programs, in terms of extending the compliments to the staff in the task force, I don't think you're going to find any dramatic differences between recommendations.

The one program we have in common is the \$400 million program.

And I don't think you're going to see a whole lot of differences.

There are some.

But not drastic.

I think that that is a good meeting of the minds for staff and task force.

So I'm happy, mayor, with your permission, to turn things over to mr. truckble and mr.

Truckble, again, my appreciation to you, for the task force for your work.

>> Thank you, city manager.

My work in the planning officer.

To build upon some of the city manager's comments, I want to recognize the task force.

It was a pleasure to work with him throughout the bond development process.

We do have or we had the chair, frank fernandez here as a resource.

But frank had to go on to another pressing meeting so extends his apologies but we'll try to get him back here for the august 7 work session in case you have any questions about the task force process or the recommendations.

So what I would like to do to start off the presentation -- thank you.

In your binders, we have the presentation for today.

This is going to be the main tool I'm going to use to walk through the presentation and the other recommendations you have in your binder.

First off talk about the binder you have in front of you.

A lot of in there to talk about how that information is organized.

It's basically organized in reverse chronological order.

So you can see the summary recommendation, the summary recommendations in the front of your binder.

The staff, city manager's recommendations and the task force report coming back and working backwards all the way to the capital needs assessment.

We also have in the appendix, we have more descriptions on the projects and programs that are included in the recommendations.

One of the things that I want to note in that, though, is you can see little icons in the project descriptions that say 575, 400.

The icons indicate which recommendations those projects are included in.

So, in other words, if you see a project that has all of the icons for all of the amounts, it's in every single recommendation from the task force recommendations to the staff recommendations.

You can see that for several of the projects that we have.

Just a little bit about today's recommendations, an overview of the process that we went through, with the task force getting back to your establishing the task force in October of 2011.

We'll talk through that and talk about how we got to the task force recommendations, provide an overview of the recommendations, and what's included in those.

And transition over to talking about the staff analysis and also the city manager's recommended bond packages.

We'll talk about the next steps that the city manager mentioned that are coming up in August as well.

So we started as I mentioned on October 2011 with resolution.

You created the bond election advisory task force.

And council took office to create or to approve the guiding principles that were the basis for developing the bond recommendations as well as they received a briefing on the needs assessment and debt capacity in December 2011.

And things really kicked off with the bond election advisory task force when we presented them the capital needs assessment on February 16 of this year.

What we did there is took the guiding principles and applied those to the capital needs projects and programs that we discussed with you and we provided that information to the task force at that time.

And then over a relatively short period from February to May, the task force organized into four committees to really delve into the projects and programs included in their recommendations that you see before you.

And those committees were affordable housing, city facilities, parks and transportation mobility.

And I'll talk a little bit more about those committees in a second.

So the committees worked again diligently on conjunction of receiving community input and working with staff.

They developed their recommendations to bring back to the full task force on april 23.

Then at that point the task force took action to say that it's going to develop two recommended bond packages, one at the \$575 million level and the other at the \$471 level and that was based on the recommendations they had received from their communities at that point.

They thought that's what they could get.

Quickly, I want to touch on the guiding principles, those are the six that were the basis.

The task forces reference this quite a bit and they went through the process as staff did as well working with them.

Real quickly about the task force.

As you know, 15 members on the task force.

They had regular meetings and they had 24 of the committee meetings.

A lot of work over a short amount of time.

And they had just a couple of weeks to really kind of digest a lot of information.

But they did an amazing job in doing so.

Also, as part of this process, as we work with the task force to develop a community engagement strategy, and we had several different opportunities for the community to take part in the process.

On speak week opportunities where the folks came out in the opportunity in public spaces and got the word out about the bond process, we had four community workshops where people are able to work through allocation exercises.

Then the task force had two community forums in may where they got more direct input and feedback from the community.

In addition to that, we had several ways electronically for folks to provide input.

The allocation exercises i mentioned were available on-line.

E-mail, we had a hotline.

And then we posted a lot of information on the website.

So a lot of opportunities for folks to see what's going on and take part in the process.

We did have impact all around the city.

It's busy there.

Just to give you an indication that we try to get around to the city and tripe to get feedback as much as possible, kind of at different points.

We look at community meetings, we make sure that we got around to all of the points in the community.

A little bit about some of the results we have in our community engagement process.

We have four workshops where community members sat around tables and worked through allocation exercises and making some of the same decisions that the task force had to make.

And they made those around the four primary categories that the task force organized around.

And so, in the workshops, there was basically table consensus to develop those recommendations, but also individuals could get on-line and do that through a survey.

And so here's the -- the slide provided an overview of results.

You can see somewhat similar, a little difference on the city's facilities and the affordable housing.

That speaks to the differences in the process as well.

Also, it's important to note that the proportions were similar for the 300 and 200 allocations we worked through.

We worked in the 400, 300, and 200 exercise.

Not all were able to get to the table, but we did the best we could.

We did this in the community meetings and on-line.

The community identified they were key issues of concern or priorities coming from them.

Now is probably a good time to note that all of the information that you're seeing here, including all of the information in your binder is being put on the bond development website for all of the public to go and browse.

We weren't able to produce a whole lot of binders, but we do have some of the handouts of the summary information here.

But all of the information will be available on-line as well.

So that brings us to the task force recommendation.

One of the things that I talked about is the committee did a lot of work in the relatively short time frame.

The recommendations of the \$575 million and the \$475 million recommendations were based substantially on the recommendations for the committees.

But based on a lot of information that was provided by staff.

A lot of the departments put a lot of work in providing the information to the committees in the full task force in the process.

The \$575 million and the \$475 million packages that the task force developed were based on the process.

That's more so for the \$400 million recommendation because the task force spriskically requested staff to provide them analysis on the allegation proportion they were trying to get to.

So that's why you're going to see the \$400 million recommendation is closely aligned to the task force, 400 recommendation.

The affordable housing, a lot of the programs that we're talk about here are some of the same programs that we did under the 2006 bond program.

Programs like rental housing, homeownership, home repair.

And the recommendation for the 575 million package from task 5 million or 17% of the package.

For the \$400 million, it was 8 million of 18% of the package.

For city facilities, this includes a lot of our city facilities and buildings that support our operations.

So this is the category of funding where you see the public safety facilities, police, fire, ems.

You see renovations to existing libraries include in that list.

Also, some of our maintenance and support facilities for public works and parks department as well as some of our health and human services buildings.

The recommendation of the task force is \$the recommendation or 17% of the package.

For the 400 million, it was \$68 million or 17% of that package.

>> So some of the major corridor improvements for i-35 and mopac, for north lamar and north burnet and riverside drive, we also have a bucket for the design of new projects.

I do want to mention this one in that this came out in some of the discussion with the transportation commi, our departments worked effectively together to consolidate projects and make additional recommendations to that committee that came out of that process.

As you look at some of the transportation recommendations, as you get into detail.

You will see some of the projects that have been consolidated, to the credit of the departments to work together and take into account how we can best coordinate these projects consolidate those.

So, again, credit to the work of the departments there.

I also want to mention that this category does include colony park infrastructure for the tasks.

Park infrastructure, a product related directly to the affordable housing development out of the colony park location was included in the affordable housing category and they moved 5 million over into the transportation category.

The total for transportation are 7 million or 36% or 1,982,000,000 or 35% of the 400 million recommendation.

Also, the task force recommendations included four what we're calling community-based projects.

There were several proposals that came out from community stakeholders through the process, primarily working with the task force committees.

They received information and presentations on these proposals, and then the committees basically identified some of the projects to move forward for the full task force to consider.

Where the force ended up is recommending funding for the four proposals.

The expansion, the museum, the east 51st street plan improvements and the trail.

The allocation for community based projects is 17%, or 3% of the package in the 400 million, it's 6% or 2% of the package.

A little bit about some of the differences, when you're looking at the \$575 million and the \$400 million recommendations, you will notice there is reduced funding for some of the ongoing capital programs that we have such as housing affordn't, open space acquisition.

Quite honestly, when we looked at reductions, sometimes it's more feasible to look at some of the ongoing programs because you can prioritize within those programs as you're dealing with certain funding amounts versus a stand-alone project where you either fund the project or don't or fund a logical phase of the project.

So you will see some of the ongoing programs, some of the differences.

Reduced funding in the \$400 million recommendation for the northwest substation.

The public works herald court facility, and there is also reduced funding for i-35 north lamar and north burnett and riverside corridors.

A couple of projects were removed from the list from the 575- to 400.

I think fire department, fire maintenance and breathing air shops are an example of the projects.

The east 6th street project is in the \$575 million project recommendation.

One of the things I want to mention is, when you look at the allocations for the 575- and the 400- you will notice that, first of all, they're consistent with some of the proportions that came out of the committees.

But also, in general, those proportions are pretty consistent from even the feedback we got from the community.

When the community developed their aloe scags, those proportions were similar to what the task force is and again that gave us the good basis as we looked toward the staff recommendations to say there is a lot of consistency here and maybe we need to continue to look at those proportions.

Some of the policy recommendations that came out of the task force included in the task force report you have, there are specific policy recommendations from the four different committees as well as summary policy recommendations, which I'll high light a couple here.

Provide adequate funding for ongoing facilities maintenance.

I know there was definitely concern and making sure we have adequate nunding for maintenance issues going forward to deal with some of our needs on the maintenance side as well as the capital projects to come out of that in the future.

Also provide more transparency on how funds are spend, taking advantage of geospatial information, mapping, putting more information about status of project and how many dollars are being spent as we move forward with our capital program.

Also, there is a recommendation to develop criteria for better evaluating geographically equitable access to infrastructure.

And one of the things noted by the task force is this speaks to the amount of investment being made around the city, but also the use of that asset and the community benefits.

In other words, are there certain assets with a wider community benefit such as assets with a more geographically specific community benefit to them?

The other thing I want to note is the task force did identify, again, based on your direction given to them, this developed these recommendations and the task force went through and analyzed the policy recommendation that came out of imagine austin and basically identified which once applied to their recommendations and deliberations, also included in the backup of the task force report as well.

I'll move into the staff analysis and city manager's recommendations now.

As the city manager mentioned, there were a couple of key tenants we were using when we developed these recommendations.

Because there was a lot of consistency in the recommendations developed by the task force with regards to proportion and also the fact there was a lot of staff analysis and staff information provided to the task force to provide the 575- and \$400 million recommendations, that immediate it easy tore staff to develop its recommendations because we were working off the same sheet of music, so to speak, with the task force.

We did also take into account other things that the council directed as part of the process and one of the things is the adequate funding project and also looking at working within the scope of the needs assessment.

So taking the task force recommendations, all the staff analysis provided to them, the community input they received and building upon all of that led us to the recommendations that we have for the city manager and the staff recommendations.

One of the things I want to mention is that it was important during the bond development process, the task force spoke to it, geographic equity investment was important as well as funding opportunities and those are two big things that came up a lot and two key things that we took into account as we were developing the plan as well.

The first one I want to cover is the staff \$400 million recommendation.

And, so, for this, we have affordable housing is -- and, again, you will see these proportions and the amounts are relatively similar and close to the task force recommendation which is also provided for your comparison.

Closely to that, the proportions stay relatively consistent.

One of the areas where you will see differences in funding is city facilities based on the information that we provided to the task force, that was where we felt the natural break was as far as those recommendations, but we also try to stay consistent with the allocations for affordable housing and parks and open space, transportation mobility as well.

I'll talk to the differences in a second.

One thing I want to know is you do not see a recommendation for community-based projects, that was based on the amount of need we were looking at and the decisions we had to make, it was difficult to put those into staff recommendations.

We had priority coming from the community.

A couple of things about the staff 400- recommendation, it supports a four to five-year implementation program considering the funding available from prior bond programs and the amount we're talking about within this bond package.

We went back and restored some full funding for the projects that reduced funding for the projects, namely the north apd north substation, the herald facility for public works, water parks and colony park infrastructure.

In the staff recommendation, we'll see the colony park infrastructure moved into the affordable housing projects.

You will also notes it maintains proportionate allocation for affordable housing, 18%.

It also has a recommendation for open space acquisition that is about 8% of the total bond package.

One of the things I want to note is that, when we look at the task force recommendations as well as even our historical bond programs, namely 2000, 2006, we noticed the allocation for open space continued to be around 8%, and pretty much each of the cases, so that was a really good basis to start from when looking at the open space recommendations for the staff recommendations.

There was a little bit of increased funding for the ih-35 corridor improvement, noted as a key parting issue by the task force.

And this package also includes \$2 million for continuation of the urban rail initiative, and continuing of some of the ongoing work happening in conjunction with the transit work.

The next recommendation we have is the city manager's \$385 million recommendation, and the city manager, as we mentioned, is making this recommendation because, in consideration of the on stand debt service tax rate that our financial services department recently went back and verified that the debt capacity member is at 385- as communicated to council back in december in.

That package, again, very similar to the task force 400 and the staff recommended \$400 million package, you will see the allocations are relatively the same.

There are some differences.

Affordable housing at 65 million or 17% of the package.

1 or 20% of the package, parks and open 5 million or 27% and transportation mobility is 4 million or 36% of that package.

A couple of key differences between the staff 400 recommendation and city manager's \$385 million recommendation, supports a four-to-five year implementation program but some changes in the implementation program in the parks area.

Additional reductions from i-35, north lamar, north burnet.

We thought we could phase the work adequately given the decisions made along the lines.

Also minor reductions in the culverts program and neighboring partnering program.

Recommends 17% for affordable housing and 8% for open space.

This package also includes the continuation of the urban rail initiative funded at 2 million.

So the \$300 million recommendation and the \$200 million recommendations are being brought to you as was discussed with you back in december in discussing and developing recommendations for \$400 million and \$300 million package.

And so we went ahead and finished the work and provided the recommendations to you.

In the staff \$300 million recommendation -- again, we tried to stay as proportionately consistent as we could with the task force recommendations and the prior staff recommendations and city manager recommendations.

However, as that number starts to shrink, there is only certain places you can go to look at some of those reductions, so obviously tough decisions were made in our departments and they did a great job working with us to get there.

Some of the background on the \$300 million recommendation, as the total package number starts to shrink we feel this supports a three to four-year implementation program because a lot of places we could go for reduction are some of ongoing capital improvement programs and as that shrinks, there is only so much they will be able to do over a limited time frame.

Also, there were some projects that were removed, namely herald court facility from the city facilities recommendations.

And I do want to note that when you look at the \$300 million recommendation and the backup detail listing, you will see that the funding for palm park and waterloo parks isn't decreased but consolidated into the waller creek trails project because they felt that's the best way to maintain funding moving forward as dollars become limited.

Maintain 17% for affordable housing and 8% for open space.

The \$200 million recommendation -- and as we get down further, the time frame starts shrinking up a little bit more as well as some of the decisions become definitely much tougher.

They were tough at any level but especially the \$200 recommendation.

I'm trying to maintain the consistency and proportions across the funding categories.

Some of the things you will see in the \$200 million recommendation is as we get down to that number, we're looking at more of a year-to-year implementation program.

Again, you will see some of the reductions in some of the ongoing capital improvement programs, transportation and some of the parks program.

Also, you will see that the montopolis community building and recommendation is scaled back to replacement to have the building only.

What happened during the process is the health and human services department worked with the parks department and developed a proposal for co-locating some of the services with the parks facility and that was provided to the task force and ended up in the staff recommendations up to the \$200 million recommendation.

That's the difference there.

Then you will also see phase funding for the fire departments, onion creek fire station and we looked at what was a logical phasing for that project.

Several facilities at this point began to be taken off the list because to have the tough decisions.

You will see renovations in some of the libraries and some of the health projects come off of the list.

It maintains 15% funding for affordable housing and, again, maintain the 8% funding for affordable space in this package.

So we have a summary slide here and, again, we go into much more detail in this binder in your summary chart behind that, all the projects and programs were listed, how the funding changes and what the funding amounts are across the different packages.

Here's an overview comparison of the different packages that the task force and staff put forward so you can see those across the lines.

So a little bit about some of the next steps, again, I know there is a lot of information in here and I think this is a starting point to get you this information and answer any questions you have.

But from now to august, there still are going to be opportunities for public input.

We're basically leaving the lines open so to speak on our email address and hot line, so we will be obtaining and compiling the public input and providing the council backup.

We're looking at an august 2 public hearing for the city council to hold on proposed bond program.

August 7, a work session to final advertise the bond program, and then work some of the bond proposition language at that time.

Everything wraps with august 16 which is setting the bond election for november 6.

And, so, before I answer questions, I do want to mention a couple more things about the binder.

In your summary recommendations as you look thr the summary chart and the detail, behind that, you will see also two other pieces of information.

You will see the operations maintenance impact of the project.

We did the analysis for the needs assessment project.

We also went back and did analysis for operations maintenance for the \$385 million manager's recommendation.

So you will see a summary of the 385- analysis as backup for that summary part as well.

You will see the breakdown in the area done for the task force recommendations for the 575 and the 400, and that's just to give you an idea of the gee graphic disbursements of projects through the recommendations.

One thing to notes when you're looking at that information, and you will note that in the maps as well in the project descriptions is where there were programs that were mainly ongoing, several improvements happening across the city.

We weren't able to map this because it happened citywide and you won't see the information detailed out but you will see a lot of the stand-alone projects detailed in that.

>> Mayor Leffingwell: I'm going to say a couple of words first because I have to step out for a short time and I will be back and the mayor pro tem will step in while I'm going for about 15 minutes.

As I said before, it's no news blast to anybody, I'm going to be supporting, at the end of the day, a bond program that does not require a tax increase.

So given that, I think there is some flexibility to move the nurmt around within that -- numbers around within that framework.

For me, personally, that's my limitation.

One specific meant or question that I would have just in comparing it to the 2006 bond package, which is, I believe, \$576 million, that was in \$2,006, not \$2,012, but in comparing the amounts of money for two big items in that one and proposed in this one, affordable housing versus open space, in 2006, we allocated about 10% or \$55 million, a little bit less than 10% for affordable housing and a little less than 9% or \$50 million for open space.

I note in these proposals, in these new proposals, I believe the \$400 million proposal had 18% for affordable housing and 8% for open space.

The only difference, as i recall, with 385- is it goes from 18 to 17 for affordable housing.

So, to me, that's a big adjustment in -- from a policy perspective.

These are both very important items that we fund, but that's a big change in the way we approach them, I think.

So I guess I would like to see some discussion, maybe from the staff, maybe from council members, are there particular themes that are driving this, are there particular projects driving this change in policy or what is the reason for it, for the big change?

>> Well, mayor --

>> Mayor Leffingwell: May not have time to fully listen to your answer, but go ahead.

>> And it's a pretty brief one in that I think a lot of the discussion around affordable housing funding, a lot of the recommendations that came out of the task force and the proportions, that came out of the feedback they got from the community in talking about the affordable housing needs.

So getting to those allocations that was directedly based upon recommendations coming out of the affordable housing committee and all the feedback that they received.

>> Mayor Leffingwell: Are there specific projects we have in mind that would be covered in the next few years that would require the --

>> I don't believe that's the case.

I think the general discussion and feedback was a lot of the ongoing programs that we have is to don't those projects and continue funding for those.

Some of the things noted were the opportunity to leaf badge funding for the ongoing programs and projects in the affordable housing programs.

But that was just some of the conversation that led to that.

>> Mayor Leffingwell: Potential opportunities for open space acquisition not funded with this allocation division here, so I'll just make that commented and realizing that we have some time at least until august 2, perhaps beyond that, to make a final decision, but i just wanted to put those comments on the table.

With that, I turn it over to mayor pro tem and we'll be back shortly.

>> Cole: Council member morrison?

>> Morrison: Do we have an estimate that you can share with us of the need for affordable housing or the demand for money for the open space?

I know I've heard some numbers on affordable housing but i wondered if you had a chance to discuss that on the task force or amongst staff?

>> We did.

Nhcd was able to provide additional information for the various programs and some of the various studies they had done.

We have someone who can speak to some of the information that was provided but provided some of that information as well as hearing of some of the needs from some of the folks that came to talk.

>> Morrison: Right, and i think when we did the 2006 election, something was on the table of 1-pint-something, i forget the millions, of affordable housing that was part of it.

No, no, I'm talking about the need that exists in the community which has a b in front of it.

Can you add something?

>> Betsy spencer, director of neighborhood housing.

The market study conducted several years ago identifies roughly 39,000 units needed of affordable housing and that equates to probably between \$1 billion and \$2 billion worth of public investment to be able to create that.

So the need is significantly larger than the overall bond package.

>> Morrison: Do we have a similar number to put on the table with regard to open space?

Maybe not quite as clear wutcut cut one way or the other.

>> I don't know there is the same type of information, but i know we definitely provided information to the parks committee about the open water space programs we have and the types of things we look to fund with that.

So we can provide additional information pores morse but just to address the question of i think defining the need is important in terms of -- to make a dent in it, but we have had a very successful program here and one thing I think we need to keep in mind in terms of why the change in affordable housing is, last time out, that was the first time out for affordable housing bond so it's like sticking your toe in the pond to see how it's going to work, and I think that we've done a really very good job, there is been good reports out about how we have leveraged the money, that it has made a difference, so we have the test term over with.

I think that it gives us more confidence to move forward and really try to tackle the need.

For me, that's part of the explanation of the point that the mayor made.

>> Cole: I would like to follow up with a comment on that.

I think there was a considerable amount of confusion in the community about what our affordable housing number actually consisted of, so I want to thank staff for putting in for affordable housing.

But I would like to see or give direction that we include emergency shelter.

I see that the women's and children's shelter is included and we also own the arch, but we don't want to see a particular category not listed so that if we have to have bond funds for that, that there is confusion in the community.

So I would say that we list that as emergency shelter or transitional housing.

Are there initial comments?

Council member morrison?

>> Morrison: Speaking of things whether things are included in the affordable housing, one thing that's come up a couple of times in different situations in the past month is the preservation of affordable housing as one of our biggest challenges, and we had a discussion about that in public health and human services around our woodridge apartment situation.

Also with regard to the airport boulevard effort, one of the things that's been identified is that 40-year-old apartment buildings are one of our most important pieces of preserving affordability and that they're getting to the point where they need to be renovated if they're going to extend their life cycle.

So I guess one question is, is the way it's crafted, is it going to allow us to develop a program for promoting the renovation of some of those particular buildings that we're talking about?

>> We typically handle that through our application process and how we score.

So that's certainly something as we did with permanent affordable housing and local initiatives.

We accommodate our application process to prioritize some of this type of priority.

So if preservation in particular areas is of particular interest, we can prioritize that in our application process.

>> Morrison: Great, because when we were going through this, there was a slide that listed what affordable housing funds would be used for and it didn't appear to me we would be able to use them for that but I assume the language would be broader and leave it open.

Thank you.

>> Cole: Council member martinez?

>> Martinez: To follow up, cbs morrison, I w to echo what she's saying, we have a tremendous need for affordable housing, but, at the same time, we're battling the struggle between existing affordability being scraped and redeveloped or renovated and no longer becoming affordable.

So as we did in the first round of funding from 2006, when we bought down units to create affordability for 25, 35, 45 years, I would want us to look into the next round of funding where, if someone were to agree to maintain affordability for x number of years, that we would provide funding for renovation, weatherization, to preserve that affordability that currently exists, as opposed to building an entirely new structure.

What we're seeing in southeast austin is going to continue to happen.

Woolridge is just one small, tiny example, but there are 40-year-old and 50-year-old complexes that no longer become affordable.

So what I would like to see in this round is the leveraging of those bonds to not just buy down affordability in new projects but affordability, and it might be a bigger bang for our buck providing the incentive for property owners to have an aging structure, but to renovate it, maintain affordability and agree to the terms that we would have.

So I just really want to echo that because it seems like we are in this hamster wheel, if we, every six years, keep going out for \$70 million, \$100 million worth of affordable housing but not preserving the existing affordability, I'm not sure we're going to make the progress we're hoping to make.

>> One of the things I would want the council to know is, in the conversations with the community about preservation, recognizing we don't have a specific preservation policy, it continues to be one of the challenges, and speaking with the stakeholders quhof worked on the bonds, we have brought it to their attention that setting aside capital that can be accessed and utilized as a preservation strike fund, i think most of the members here are aware of the mcarthur grant which would have allowed for capital to act as a strike fund.

So those are some of the things that we're already talking about.

And we could do that with an allocation.

It's something to consider, should the allocation be available.

>> Spelman: Would a question not open housing be in order?

I just want to be sure we dealt with the housing questions and maybe more later on.

Mike, I wondered if you could walk through how you use the information on unspent authorization from previous bond elections in crafting this bond either from the staff or task force's point of view.

>> Particularly for the ongoing programs we have, where a lot of our existing funding factors in -- because these are ongoing programs and we're uking at installments of funding and previous installments of funding and how we're working through those as well as future installments of funding to keep the ongoing programs doing -- so what we did was looked at the dollars that are there and how are they obligated or allocated now.

One of the things I want to mention is there was request for information about prior bond programs and available dollars.

When you look at the available number, that's more the financial system determination available, but that doesn't mean that money isn't allocated for a specific purpose, it only means it's not committed in that way.

So when we looked at that, we looked at the obligated funds but also funding that was committed to specific projects.

That especially holds true when you look at the projects in the ongoing program.

A lot have been allocated to existing needs even though they haven't been full from y spent at this point.

Talking to the departments, we have been making better progress on getting through some of the programs and I think we feel good about going forward.

>> Spelman: At what point do we issue a bond in a situation like that?

We have a project in mind.

We have not gotten a contract for a construction project.

When would you issue the bond?

>> We believe -- yeah, I think it might be a financial question for Elaine and Greg.

>> Good morning, Elaine.

>> Good morning.

As you may recall, we have a go bond sale every August, and what we do throughout the year is we have the reimbursement resolution that lets us go ahead and spend money in advance, and then we use the bond proceeds to reimburse the expenditures we've made.

Those are based upon a 5-year spending plan for the capital programs, so we have a rolling 5-year plan in what we expect to do in terms of project, then we have, of course, our affordability.

>> I'm looking at the answers to my question as to how much of the go bonds from 1998 on to 2010 have yet to be spent, and the bottom line is 365 million which I suspect is an overestimate.

Some of the specific projects have been superseded, particularly the '98 bond package, \$14 million is unspent, and my best guess is, it's been 14 years, if we haven't done them in that time, we probably won't do them.

But there are about \$300 million in unspent authorization.

The first question I have for you is, if it's unspent, that means we have yet to do a bond.

>> That's right.

>> Spelman: And we haven't spent money, the cash for that.

>> That's correct.

But if you have the answer in front of you, there are encumbrances of about \$75 million against that \$300 million, and that means that we have canceled the approved contracts, we've set aside that budget money but not spent it yet.

>> Spelman I WAS WONDERING What to make of that.

The encumbrances is we've made a contract, we made a deal, we know we'll be spending \$75 million on these projects, but we have yet to issue the co to issue the bond.

Is that accurate?

>> We haven't spent that money yet.

>> Spelman: Another \$225 million from the bond issues not yet incurred but could be in the next few years.

>> Greg canally, financial services.

Let me add to what elaine mentioned in.

General, we have the reimbursement resolutions where we issue bonds sometimes after the appropriations basically to sync up the paying of the debt service on bonds with expenditures.

We don't want to sell bonds way in advance.

We also try to make sure we have smooth bond sales each year, not a bond sale of \$50 million one year and the \$250 million.

We try to keep them smooth.

We think it's a better way to budget and plan for tax rates.

In that, I think what would help is we look at the remaining 2006 to 2010 mondes.

There are remaining bond sales created with each of the bond programs.

There is the combination of the bond programs between the 67 million and the \$90 million in 2010.

So about closely \$650 million, we have another \$251 million in bonds to sell over the next three years.

>> Spelman: Okay.

Thank you for rolling that up for me because that's a much better number than the \$300 million in authorizations we got, but we have a plan to sell \$250 million worth of bonds based on 2006 to 2010.

How much can we spend over the next three to five years without triggering a tax increase?

>> That's the 385- .

>> Spelman: So we know we'll be spending \$250 million against the 385- total number based on previous authorizations?

>> The analysis on debt capacity, one of the key points is to determine what the remaining bond sales are for the other bond programs.

>> Spelman: Okay.

>> So we start with that.

We know we have another \$250 million to issue.

We look at that tax rate and then, from that, we start the point of how much more could we issue, given the assumption of t 251 million plus a constant debt service tax rate which reveals the \$385 million.

What would be new authorization from the voters as well as authorization to sell bonds over the next 6 year period.

>> 10 6 Million a year, \$3,336 million over, over which \$251 million is from he was previous authorizations, another 385 million would be in going-forward authorizations.

>> That's correct.

>> And we have \$346 million in the amount unspent, since \$110 million of that is not on your five-year plan for spending, we can reasonably assume those authorizations are -- I don't want to say null and void, but we're not going to get around to those projects?

Is that an accurate statement or am I extending it a little too far.

>> I'm not clear where you got the 110- .

>> Spelman: \$365 Million is unspent on bond authorizations since '98, then using the 251-, yeah.

>> The additional bond programs, I would like the permission to respond since you provide the project management services from the capital program about projects from specify bond programs and our ability to carry them out.

>> Public works director.

Going back, really, the biggest amount of money is the 2000 bond program for transportation is \$42 million is tied up in six projects, and those are in the process of going forward.

10 Million of that is tied up with the county on the howard lane project that has had some challenges but the county is prepared to go forward.

Gear was under construction but we ran into environmental restrictions so we had to stop and do drainage studies and didn't rain for 12 months so that put the project behind a little bit.

There is some real estate issues on pleasant valley and todd lane.

Those have actually been solved through an innovative method through the traffic engineer to put round abts in which he increases the need to state acquisition to move forward with the projects and save dollars on them.

And then, finally, there are funds to be allocated 3rd street, from congress to west avenue, about \$5.8 million.

So those promise will move forward.

The funds tied up in other miscellaneous projects, sidewalks, bicycles, facilities, will be expanded in the next couple of years.

One of the intentions we had on the transportation is to go back and clean up the old bonds and look at projects where funds have been tied up and haven't progressed.

Rob spiller and I are going to MEET WITH COUNTY AND TxDOT IN A couple of weeks to review the requirements and make sure they're valid.

The gregor lane expense, those funds will be freed up to do other things with.

So the intention is to go through all the '98 and 2000 bonds and allocate project ready to go to construction shortly.

When you look at the 2006 bond moneys, those funds will be allocated and only dated probably by the end of the year.

A couple of street reconstruction projects coming forward and intersection improvement projects coming forward as well.

Also things done to accelerate work on the local area traffic communication program or traffic management program formerly known as traffic coming.

We have mechanisms and standards and designs to accelerate that work.

Moving to the 2010 bonds, with council's approval, about 25% of that total bond will be obligated to the next month for boardwalk project.

As mike said before, a lot of the money that transportation has committed to partnership programs doesn't show up in the financial system, but those projects are essentially obligated in support of county-led and other projects as well.

So I think, while there have been some projects that have languished, we've taken a critical look at those and will exercise the dollars that are available for those.

>> Spelman: So the vast majority of the 2000, 2006, and 2010 money that was allocated to transportation is on the five-year plan greg and lane were talking about?

>> It is.

I think one thing to look at, over the last two years, we've more than doubled the amount of capital dollars expended, and that's a signal of a couple of things.

One is the normal cycle of a bond program where things go from design to construction and the expenditures pick up.

A large part is due to us clearing out the obstacles to getting the work done and having better interdepartmental collaboration and better mechanisms of getting the contracts out and moving things forward faster.

>> So of the \$110 million authorized over the last six years but will not be spent in the next five years is probably not going to be transportation.

Or is it?

>> I think probably sarah can talk more about the parks and recreation dollars.

There are cool improvements going forward that took awhile to get through and there are other facilities, and will probably prefer sarah go through the program.

>> Thank you.

>> Sarah hensley, director of parks and recreation.

We have projects that we are beginning to implement.

Bartholomew pool, then closely behind that we come in with pools over infield for hopefully next year or the year after.

We have some trail projects that we're working on in conjunction with the public works.

We have -- what we've done is basically taken our bond program and targeted it out.

What we show is the majority of the 2006 bond money that we have left, we should have completely -- well, I say at least the majority of the dollars should be spent by mid to end of 2013 so we're in the queue and so we've literally planned it out that way and based on into the allocations we received greg was just mentioning when they do give us the money for us to plan it out.

>> Can you give us a sense for, Sarah, what it is that has been authorized in 2006 and 2010 that are not in the queue that you probably won't be spending money on?

>> There's one project that we're working on that's currently listed in the bond program for 2006, and adequate funding was not vealed.

The zilker bond replacement, that's why you see the money from the 2012 bond program, so we would there v to marry the money from the 2006 bond program to complete the project.

Because to have the conditions related to Bartholomew pool, the need to renovate, we'll have to marry some of the dollars we have in the pool fund with hopefully the funding we're getting through the 2012 bond program, carrying it over to be able to complete the infield pool that needs to be renovated.

Marty land acquisition is another one.

We have a certain amount of dollars we received in 2006.

We have a priority list and actually fine tuning the list with the parks and recreation board as we speak and looking at what we can buy with the dollars we have.

Of course, we're looking at how we marry those dollars with if we seven additional dollars to make larger land purchases.

As you know, one purchase could be a large chunk of that money.

So that's some of the money we hold on to, and then when our priority areas become available and sometimes they don't with the bond program to the first year, second year, third yore, it's sitting and we have the ability to looking at those priority areas.

Another good point coming forward in the future is the cooperative effort between state parkland dedication money and bond money to marry those to get more bang for the buck in buying board, that will come through parks and recreation and a recommendation to council on how to get money we get from park land dedication to marry those dollars in priority area to high the highest purchase power for the land.

>> Spelman: A lot of the department, it's my insing, were in the same boat as you were, in the 2006 task force shrunk everything by 30%, that made some projects undoable.

>> Intliewl.

That's where we are.

Another perfect example of the arts the center.

Previously replacement was 7 million, now it's about 9 million.

The 2012 bond with some of the money we can marry there, we can begin to look at hopefully a partnership to locate the Dourgherty Arts Center and repurchase the facility and look to the highest and best use of the current site.

>> Spelman: You have \$36 million or so in authorizations from 2006 bonds haven't been spent yet and it's your ambition to spend it all?

>> We are, down to the penny.

That's why Marty is here because we have it planned out exactly how we'll do that.

And we have the Parks and Recreation Board's guidance, is looking how to prioritize especially in land acquisition to get the biggest bang for the buck.

>> Spelman: Is Sarah's umm bigs realized in the 2006 list?

It is.

You're assuming she'll be able to spend it all?

>> Yes.

>> Spelman: Where can I get a list of projects that are not in that queue?

I'd like a sense of what it is we promised, if we're going to be spending money on we still expect to be spending the money and perhaps by process of elimination what things we had in the 2006 and 2010 bond packages which is no longer our intention to spend money on in the next five to six years.

I think it would be useful to get a sense on what we are and not going to fill.

The biggest question is to verify the 385- is not the total amount of money we expect to be spending in bonds or total amount of bonds we expect to be issuing in the next six years, that's the difference between previous bond packages and what our total portion could be without a tax increase.

So 385- is topping us up rather than the total amount.

If you can get information on previous spending, I'd like to see that.

>> Cole: I have a few questions that I want to hopefully provide context to our discussions.

Greg, do you recall the bond packets, the large, comprehensive bond packages that we went out for in 2006, was that 575- ?

Was that the right number?

>> 567 Million?

>> 567 Million and before that in '98.

>> 339 Million.

>> Cole: But an interim package.

>> In 2000, \$163 million for transportation and open space and in 2010, transportation only for 90 million.

>> Cole: And then was there a PACKAGE I EARLY '90s?

I seem to remember a very large package.

>> There was the one prior to '98 in terms of the general bond program.

In the interim, there was several special elections for specific purposes in '97, but '92 prior to that was the last EARLY '90s GENERAL BOND Program.

I don't recall the dollar amount.

>> Cole: Because one of the things that jumped out at me is we have different categories now.

Like I don't see drainage and erosion.

Can anybody help me to understand why that is just totally missing?

Looks like we solved the problem, but I don't want to use the word sexy, but I will.

Doesn't sound like portable housing, but those are the fundament of the city, and it's just not here.

Here.

>> Mayor Leffingwell: I can answer gnat.

We've generated funds for roads and flood control from the drainage fee on your utility bill.

In the past, when appropriate and when we're able to, we have supplemented that funding stream with bond money, but this bond package is a little bit skinnier and I assume that's why the supplemental money, but the money is still there, these kinds of projects.

>> Cole: Okay.

I would just be curious to know if there is any -- and I can just get this information -- if there is any projects that really are erosion-drainage type that are included in this, or what the projects that we don't currently have funded that was part of our needs assessment that was drainage and erosion.

I just don't want to not know what those fundamental needs were.

Is there a way to calculate that?

>> Well, mayor pro tem, the stand-alone projects for drainage erosion, there really weren't a lot of those projects included.

I know there is erosion work as part of the waller creek improvements, but I want to know a lot of our projects have some consolidated needs.

For sample, some street reconstruction projects happening in the program do have dollars allocated for drainage as part of that.

So when we're looking at the other infrastructure projects, drainage is incorporated into them.

You're not seeing the stand alone needs and mojts needs identified.

They were I cooperated in the initialing budgeting and scoping of that project.

>> Uh also don't do water and waste water capital.

They have a dedicated funding source as does the drainage.

It was determined early on they have to stabbed alone in the program.

Especially because we have a couple billion of other needs, as though they have extensive needs, they have a dedicated funding source.

There is some included in this because of the completeness of the project.

The stand-alone project is not included because it's assumed they would continue in the daneage fee.

>> Mayor Leffingwell: I have to on the environmental board ten years ago when the watershed department did their comprehensive study, all of the erosion and flood control and water quality needs we had in those 14 creek urban water sheds, at that time, the estimated need was \$800 billion million-dollar.

So even though we have been spending down every year since the study, we haven't even kept even.

2 million in projects that would be needed to fulfill all those needs.

So, obviously, when we're behind and getting behind -- [ laughter ] -- a few million here or there won't make big of impact on the total need.

>> Martinez: I want to put things on the table for council and staff to think about.

One of the things that I learned through this last round, I got on the council in 2006, we passed 500- and whatever that was million in bonds.

But bond interest funds when you go out and you sit on that cash and if it doesn't rain for 12 months and your project is delayed, you're sitting on cash and that cash is gaining significant interest.

What I saw in this last round is staff allocates that cash to the tune of millions of dollars as you see appropriate, and council really doesn't have any idea how much cash from interest we actually have on all of the debt GOING BACK TO THE '90s.

And, so, I want to see a clearer picture of where that interest money went, how much was created, because it also bears into the factor of when you issue that debt.

And, so, if we issue that debt in anticipation of sitting on cash for two or three or five years, that's a lot of interest money that now this council doesn't have the purview to designate where it goes.

And one of council member Riley's questions, the parks department has \$9 million in unspent funds for open space acquisitions from a previous bond package, and now we're asking for 30 million this time.

If you issue that debt and sit on that cash, you will gain significant interest.

And we never see, that I know of, council never gets to decide where that money is allocated.

So the second part to that is how do we draft the bond covenants to allow for such expenditures or allocations and how do we draft the bond covenants to where unspent bond allocation funds can be applied to a different project?

So in the boardwalk case, I remember a conversation where we closed gap on financing for the boardwalk through unspent bond allocations from other projects.

How do the bond covenants we draft allow us to do that?

>> I'd like to address a couple of issues.

>> Martinez: Okay.

>> We don't plan on the issuing the bonds and sit on the money.

>> Martinez: Right, i understand that.

>> We do a recommend burmt resolution based on the expected cash flow information we get from the department on their projects in the plan.

As they spend over the year, we come back in august and issue the bonds.

As we issue the bonds, we have the money.

Our interest rates are low so we're not erchg the kind of interest that we did in past years.

The bond language that the council adopted, the election ballot language is what determines how restrictive the funds are, and, so, it's how you develop that bond language.

The bond language typically doesn't speak to my interest earnings on the bond funds, and, so, those typically have been used for cost overruns or for funding additional unmet needs that arise from time to time.

Particularly when that happens, those projects come back or those contracts come back before council and council adopts them and we'll have a fiscal note that shows the funding showers.

But we can get you a history on what the interest income has been.

>> Martinez: I'd appreciate that because that's exactly how it came up in terms of the animal shelter.

We had a \$4 million gap in what the citizens authorized and what it was going to cost.

So we used, I don't want to say creative, but we used innovative nets to close the -- methods to close the gap and that was the interest.

It was significant.

Millions of dollars.

I think it was a \$4 million gap, and a portion closed through interest funds.

What it said to me is where is the rest of that interest money and what have we done with it over time?

It comes to us piecemeal.

It comes to us as a presentation of do you want to finish the animal shelter or not, vote yes or no, and then that's fine, we vote for it, but this is a broader context I want us to make sure that we

understand how much money is actually in that interest tool and how is it applied and allocated to different projects.

The second part of the question, in the bond covenant, how do we take unallocated remaining bond funds and apply them to a different project midstream?

>> Correct me if I'm wrong, would the bond covenants restrict how you handle the unspent moneys.

Once the bond's been spent, that typically -- and I would have to check with legal -- but typically, any unspent bond moneys have to be used to pay off debt.

I know that's the truth, the way that the revenue bond ordinances are written.

Bond moneys for bonds that have been issued, separate and apart from the election, but at such time, you can use them to pay down the debt.

>> To add to that, in addition, they can also be spent, when, as you recall while the bonds are on the brochure, in the bond proposition they're written in categories.

And, so, it certainly is an option but also spending it on another allowable use within that proposition that council approved and the voters voted approval for.

>> Just an additional note, the proposition language, theore general speaking, the greater prerogative you have to utilize the funds within that proposition.

>> And I appreciate that and i think there needs to be a level of flexibility.

I'm not trying to take that away.

But we're asking the citizens for millions of dollars worth of their tax money and I would want us to be as open as we can as to where that money is going to be spent and meet those expectations.

When I read through this presentation, there is a lot of general language and not very specific, and I know of specific projects that staff is working on and planning for that will have an impact on certain parts of our community, but they're not specifically enumerated in this presentation or what we have been discussing, and i think that's important.

I think that's really important for those folks paying for these projects that they understand the impact of what they're paying for and how those projects will or will not affect them.

So I just really want us to get as much information out to the citizens as possible because the last thing I don't want to happen and we talked about this, mark, earlier this week is, all of a sudden, one little minute project next to a baseball field turns an entire section of cmunity against our bond package simply because it affects their kids and their be able program.

That's a real example and shots is here and he knows what I'm talking about.

It's a real example of a \$1 million to \$2 million project that could really turn the entire proposal and package on its side because so many folks are upset about the lack of transparency and the lack of public process.

I want us to make sure we have those conversations and let the citizens know what we'll be doing moving forward.

>> Perfect points and a segue into why mike's sitting here.

We didn't have a capital project till the city manager identified the needs pointed out.

That's part of mike's job.

We didn't have that kind of office in the last program.

So the transparency we have been asking for is the charge city ma has given from trimble.

Council gets a much bigger picture of the funds and where they are on an annual basis at least so you all will have that information to go forth with.

So I appreciate the points and i think we have room to go in that area.

Mike has a lot of work to go, but I think we'll hit those.

>> And that was exactly a key point that the task force made as we were talking about it and we're in full agreement as we want to put that information out.

In addition to talking about some of the specific projects needs being addressed and some of the ongoing programs, one of the reasons we took that approach of talking about some of the ongoing programs is also to get across the point of the realities of implementation and you mentioned the flexibility.

So where there are the programs of buckets of several needs, if one of the projects cannot go forward, you can go on to the need in the next same purpose and do that.

So we talked about extensively with the task force of the reality of the implementation of the projects and the programs going forward.

>> Mayor Leffingwell: So you can have some flexibility of projects within the proposition but you can't move money for a project that for example comes in under budget, you cannot move that extra money for project covered in other propositions or an innate project.

Council member tovo.

>> Tovo: I have a few questions.

Thank you, this is really helpful.

I think the information you provided to task force about geographic dispersion of the funds is interesting and i appreciate the task force's interest in seeing how the money is spent and where the contemplated project would be.

So 'do we have information about previous bond programs and where those moneys have been spent?

>> Not in this binder her se.

I think we already talked about making it available.

>> That would be great.

There is some disparity between the northeast because a few projects, at least in this package, and perhaps part of the answer is they had more funding in the last package.

I think that would help us get a sense and really be sure that we are -- that all areas of the community are benefiting from the bond program.

I want to talk about an issue raised by director hensley's comments, the money for completion.

In looking through some of the projects, some of the renovations are listed at \$4 million.

Let me get that to that.

The daugherty arts center was in here and \$4 million the capital needs asems.

The task force and staff recommendations recommended \$2 million.

I assume there was a thoughtful discussion among the task force in putting a smaller amount toward a project and that would mean that the project doesn't get completed.

But I wondered if you could address that.

I do see projects that are underfunded.

If its a balance between getting something done between the time frame to have the bond program and having an amount for the project.

I think we should have a discussion about what the beth method in.

We don't want money waiting for the next bond program to complete the project.

>> There was an extensive amount of dialogue where we were on hand for many of the meetings, and the bond committee was very, very focused on ready, project ready.

In this case, the Daugherty Arts Center is not ready to move because, one, we haven't identified a set site.

We're looking and have been actively looking for two years.

But we did our due diligence in doing surveys and asking what would be acceptable locations because we didn't want to go someplace where people say we're not going there if you move the facility.

But we looked at existing site and renovations and were hampered by the fact there is a partial land fill there and it's a site that's not easy to build upon.

So we started looking at alternate five sites.

The reason we agreed it could be cut down is we weren't ready to build a new facility and quite frankly we were looking at partnering opportunities with other entities to see if we could get a better collaborative effort going similar to what we have with the Zach Riscott Theater and next to parks and recreation we do a lot of sharing of parking and everything, we're looking at the same opportunities for the Daugherty Arts Center.

We have a couple we're looking at for if partnership.

But the \$2 million we requested would help with improvements into another facility.

It will not build us a new facility.

That was our first priority.

That's why it was acceptable to whittle that down to the 2 million.

The more amount we have, the more we're able to put into the new building or existing building with renovation.

At the time and still at this time, we do not know the exact amount.

So at that time the \$2 million seemed to be acceptable especially with the other needs in line at our department as well with other city departments.

>> Just to add, counts member, council member, when we look at the projects, what was important was adequate funding.

Historically, we've had issues with adequate funding for projects, entire pruned programs, so we made the point not just for adequate funding for the full project but logical phasing of projects.

So we tried to get across to the point, look at us for a logical phasing approach based on what we know about the projects at the time, I would say dworcy daugherty arts city falls into that as well as others where they have tough decisions, maybe looking at design phase versus an arbitrary cut.

We tried to drive that point home.

>> That's the bigger question i asked and I appreciate the information from the daugherty arts center for the project that wasn't adequately funded.

I wanted to make sure we're not putting a small amount of funding that's not going to get spent because that was part of the discussion and the deliberation.

>> One of the differences b the \$200 million or \$400 million is not having money and you can't do it.

>> With regard to the community initiated projects and there are a few on this list, the amount that the city that would be included within the bond project is smaller than the need assessment indicated.

Let me see if I can finding a example.

>> The community based projects, talking about the amount --

>> the amount requested.

For example, the staff recommended or the request was 10 million.

The task force is recommended 1 million.

Did the task force come to that assessment based on looking at, you know, where they're going to get their other funding options?

Because, you know, 1 million of 10 is not going to get the project done.

So is there a process of looking at grant opportunities and other funding streams coming into the project so that we can be assured that that \$1 million is going to be a good investment?

>> There were a couple of different factors I think the task force took into account.

The chair that did to leave but we'll get him back for the august work session discussion.

One was existing funding.

So they look at existing but also the leveraging opportunities and, so, they looked at when it was communicated that there were potential partners out there they would be partnering with.

There was discussion about that as well as a general understanding from the task force that, with all the other needs they were looking at is they were trying to figure out how best to make some type of funding for these projects, given everything else they're looking at.

So there definitely was an understanding that maybe it didn't meet the full amount requested but based on all the other factors, in addition, how far along the project was.

Some of the projects, there are still significant milestones to hit in the project, at least from test medication of the task force and analysis by staff, where you can talk about big expanded funding for only so of these.

That was just some of the discussion that happened.

>> Tovo: And maybe that's a discussion we can have with the task force representative.

I guess it would be interesting to see which community based projects got funding in the last package and how they spent it in coming to conclusions they have in the request we have before us here.

Let's see, I had one last question.

Oh.

I assume this is part of the deliberation as well, but in looking at other funding opportunities, the cemetery renovations caught my eye.

The needs assessment was \$4 million and the recommendation within the bond package is 2 million.

Was there an analysis of the extent to which our current contractor is responsible for some of those?

>> Yes.

Actually, that is ongoing now and we hope to be to council in the next few months with a recommendation on the contract and the whole nine yards.

But primarily, we put in there the \$4 million, which is what we need to bring some of the infrastructure up to date.

And once again, I think through the dialogue with the bond committee and the number of needs and the priority of needs, this is one of those situations where the question is raised can we spend \$4 million on these sites in a four-year period, and the answer is probably yes if we hoof it and make the improvements.

Part of the problem is doing the different design work or initial phase work that takes so long, so the question is, will \$2 million at least get us bridge work to get some of the most important critical things accomplished and add in hopefully another \$2 million and another bond program?

So that once again goes back and ties back to what mike is saying and that is is it reasonable we'll get \$4 million of groundwork in the next few years?

There is a lot of engineering and things like that that will take time consuming work and we believe, with the \$2 million price tag, we'll be able to make significant improvements and be geared up with second phase approach to another bond program.

>> Tovo: I think I heard your first answer to me in that we are not going to be paying for our bond programs for renovations where the current contractors' responsibility?

>> What we're prepared to do is come back to council with an extensive recommendation or how to move forward with the cemeteries and the contract and that will be coming forward in the next two to three months in the parks and recreation board and that will clarify things where we begin and end.

And I guess, likewise, I'll see some lines in here that relate to palm park, waterloo park, other aspects of the waller creek project, and I know we have a partnership with the waller creek conservancy and part of their mission is to raise money in those areas.

I wondered if we could talk a little bit about why these are included in the bond program.

>> I can probably answer a little bit but not -- there is an agreement in place and there is certainly a partnership and a commitment on behalf of the waller creek conservancy to raise dollars, to help with the operation, maintenance and management of this corridor area.

From a parks and recreation standpoint in cooperation with watershed correction, water department and downtown, the imagine austin plan and the work happening downtown, for us from a parks and activity standpoints from public works, these are critical projects where the infrastructure is pretty high-need.

But there is a partnership there and certainly a willingness for them to be able to be a major player in this and sue has a little more information.

>> Sue edwards, assistant city manager.

Part of the agreement was that the city of austin would provide the infrastructure that was really the base or I call the bones for the design competition.

Once the design competition comes in, the conservancy is responsible for the pretty things that come up out of the ground that would be the art and the other kinds of design things that will come with the competition.

So our design involves the infrastructure and getting ready for what would go on top of that, so our responsibility is putting together the trails, the streets appropriately, looking at the bridges that need to be redone, but not the design part of the bridges, but just call of that infrastructure.

Tv to have thanks for the clarification.

I thought I saw money for palm park and waterloo park.

So we're talking about infrastructure projects within those parks funded through the bond program?

>> Most of it, yes, is infrastructure.

>> Tovo: What sort of infrastructure?

>> A complete overhaul.

Both palm and waterloo from the pool there we we don't operate, lack of playground equipment, turf, renovation, irrigation, connectivity, egress, ingress, pedestrian from a park perspective.

Drainage issues, serious issues related to where we can't contain the water and it's runng off, it's literally overhaul, both of those parks, completely trying to get where it can be properly main taped and it is doing a major work, rework of the two parks and connectivity between the two parks and getting from a pedestrian perspective, bicycling in and out.

>> Tovo: I'm fully supported of a complete renovation of those parks, I think it's a real need and I'm excite about the possibility for those parks.

I guess -- and perhaps we have detail in the backup work presented to the task force, I'm just trying to get a sense of what that 2 million or 1 million in the bond package will pay for.

Will the pool function again in palm park, new playground equipment?

Is that the kind of thing we can point to?

Again, I need to better understand what the city's responsibility is in relationship to the private partnership.

>> The good news is the friends at the conservancy has done is enlisting citizen involvement and citizens that have done through design plans of what they would like to see the park look like.

From the competition, they're working in the projects in from the input they're receiving from the public group.

For instance, some of the items recently have been things from interactive play, some of the very topnotch interactive play that we haven't been able to put in our parks, quite frankly, some type

of water feature, whether a pool or interactive splash pad, so all of the things you're talking about and the other part is they've already engaged huge amounts of citizen input into getting ideas of what would you like to see it look like?

What kind of things would you like to see there?

How would we address youth and family activities, how would we keep the park vibrant?

How would we talk and connect what happens there, the palm site, with an indoor/outdoor theme?

How do we keep people at the park, getting from one side to the other.

Connectivity is a real factor.

And the design part is looking at all of that through the competition, taking the feedback and input and you will have an opportunity to see the top four groups coming up with these exciting devines of how all of this is incorporated from the community input.

>> I think an analogy would be the child with no clothes.

That's our responsibility.

Their spoptsability is putting the clothes on all the child to make the child look good.

So we have the bones, they have the dress.

>> Tovo: In the interest of time, I'll stop there.

>> I just try to make it clear.

>> Mayor Leffingwell: On that note, I think it's appropriate to go into recess, take a break and we'll back at 1:00.

]

>> okay, we're out of recess, and I would assume when we went into recess that we were done with the bond presentation.

Of course, there is alwayses opportunity for council members to submit questions in writing, but just to make sure, any additional questions before we move on to the charter item?

Council member morrison.

>> Thank you, mayor.

Do we still have staff here?

I didn't realize --

>> yes, they're here.

>> I appreciate that.

Because, first, I wanted to -- I'm sure all of my colleagues join me in thanking you, mike, because this is a new job and you've just done a really terrific job and I think, I feel like we really have things carefully laid out and the presentation, the way the materials have gone, and been made available to the task force and theming them along, it has all just really been terrific so I wanted to mention that.

Let's see.

Just a couple of things.

I think the point that I got that my colleague bill spelman may have been leading to is to ask the basic question of, and maybe I misread it, ask the basic question of, in the bon christmas capacity we've already used up in our bond 2006 is there anything that things have changed so much that we're not going to use that could actually increase the 385 million that we know is available?

I thought maybe he was getting to that question, and maybe he said it explicitly, but you could just address that in.

>> Right.

So, with some of the answers also that we heard from some of the departments, I don't think there is much that we would say that about, because of the way the proposition language is, we do have flexibility in those to reallocate for that same intended purpose and so a lot of our, specially our on going programs, that's exactly what we're going to look to do party list get refreshed on a constant basis, departments have their different prioritization processes they go through so we will continue to do that.

So, I don't think there is a lot of projects, if that is the case.

I think howard has spoken to a little bit, even some of those projects from 2000, calm that money is allocated to active projects that are moving forward.

So I don't -- and we've reviewed them, my office reviewed that with the debts and we don't feel there is really substantial opportunities there.

>> I hear the message loud and clear from everybody, including most recently this morning the mayor of not wanting to have to raise a bond package thoroughsed taxes, the tax rate at all, which clearly would be a goal, but if we could free up, find out that, oh, there was really \$20

million in that 2006 bond package that is not really going to happen, then a could become 405 or something like that.

But you're saying probably not.

>> Well, what I'm saying is that that money is programmed to meet existing priorities right now.

When we sat down several months ago with our department, czar row spoke to this, howard did too that money is programmed within the on going program to address the needs so some of the needs you saw in the needs assessment, needs kind of going out past that, past the program funding, past getting that work done over the last year or two.

>> Okay, great.

You know it, really does come to the point that the mayor and council member tovo, myself, got to be involved with on friday with the county and school district, elected officials, all of our staffs have done a really terrific job of trying to address the bigger picture from the citizen's point of view of what are we looking at in terms of tax increases and the impact to the overall tax bill of an individual over the next five years, and there is a lot of assumptions that went into that and they did pull in acc and are currently working also with central health and we're going to have that presentation again tomorrow at audit and finance.

I think that's tomorrow.

So it's really sort of, I think, perhaps unprecedented for all of us to take a look at that.

But, based on all of the cohesively, since really people at home when they pull out their checkbooks to pay their tax, their property taxes, they are a not pulling out five different checkbooks, they're pulling out one, and we knead to be cognizant of that fact.

That is tomorrow so that's terrific.

I did want to add one thing to the earlier conversation.

Mayor, when you were leaving, you mentioned the concern about doubling the percent of funding for affordable housing or just pointing out that we were doing that and --

>> was pointing out the increasing difference between affordable housing and open space acquisition.

The open space acquisition stayed about the same percentage of the total package in the affordable housing just about double.

>> Right.

And we talked about that a little bit in terms of what are the demands.

The multi billion dollar demand for affordable housing and that the first time around was, you know, our first time out and that we've had really good success with that and I wanted to just add one more element to that discussion and that is that this year, what we're looking at is, I think, something like 8 or \$9 million less in affordable housing funds from the federal and state level, so we are being defunded and so to some degree, looking for ways to increase that.

And needs there for 575, one of the concerns that I have is that we have a major package so scaling back has to raise the question of, what does that do to our infrastructure and will we be losing ground, in terms of facilities and serving the public with the needs that they have, with the needs that we have as a growing city.

But one thing that you mentioned in your presentation that I wanted to point out is that when you were talking about the 400, you said you would see this as a four to five-year bond program.

So in fact, I take it that that means that we may well, then, be looking instead of six years down the road than five years down the road doing bonds.

Is that sort of what you're implying with that?

>> Based on all the analysis done in the departments and what's in that package, excuse me, I think we would say -- we could safely say that is a four to five-year program, even with some conversation we've had about existing bond dollars and how those dollars are programmed over the next year or two, what happens with the out years.

We would monitor that and do our best to work through that program.

I couldn't say whether that would be coming back in six years or sooner, later than that, but I think we're estimating right now just based on what's in there, that's the kind of time frame we're looking at.

>> I want to share this with my cryings, I have a big concern -- my colleagues, I have a big concern of not serving the needs we have by scaling back but that was a new piece of information or new concept with me this morning, if we do the smaller bond amount we have the option to go out in four or five years opposed to waiting six years so we're not necessarily digging the hole in terms of providing the infrastructure and needs of the communities but we can get them back in six years.

Although getting beyond 400, the task force had a really hard time getting down 400.

And then I just wanted to make one other comment, sort of question, and that is that.

>> The east 51st street project, am I correct, that is a project that would be a city project, it is just that it was suggested by the community.

>> I think it is probably a little more accurate along those lines.

I think that that project was brought forward by a lot of the stakeholders in the community, but some other projects, I think there has already been some discussions and coordination going on between some of our city departments, namely the transportation department and some folks in the community on what those needs are.

For any additional information, maybe we can have transportation respond to that.

>> Transportation department.

The 51st street project comes out of a working session with not only the mueller community but the surrounding communities that is a divide line between the adjacent older neighborhoods, and that process was in progress through the development, but the community process came late in the development of the bond pro sect so that was brought forth but the community to be addedded.

It fits well with the other investments.

>> Did you have a chance to vet the dollar amounts they were suggesting.

Seem like a reasonable amount to get close to the vision.

>> On the road, no pun intended, to making those improvements but it may not complete the whole project.

I think it is an exciting project, all the stakeholders in the area, they went off without telling us it was great, the strong consensus.

>> Our audit and finance meeting tomorrow, planned bond elections, a tax elections by both aisd, central health, the county and our staff will also be there, so we will be able to hopefully give the public some sense of what the long-term plan for the city are and what financial impacts they will have overall on the pocket books.

>> Of course, I've seen that presentation as you have and i think it is very useful because it shows you the combined impacts and when those impacts are anticipated to take place, of the independent school district and the county and acc and the city of austin and central health, all of those entities, most people in the city of austin pay taxes to all of those on the same bill, so it is important that we work together to make sure we collaborate and plan our actions so they won't have a huge adverse impact on the average citizen.

>> We will take up item c-1, discussion of the november 2012 election for -- no, excuse me.

Discussion of the election matters in 2012, potential direction in staff.

Basically the charter, proposed charter amendments.

I understand that we have some invited testimony, work session, we don't normally take public testimony, but we have some invited testimony to present, to be presented by both sides, and I believe suggest that rather than try to figure out who's going to speak that we just allot, let's say, six minutes to each side and you can divide it up anyway you want to.

Is there any objection to that from the council?

And we will hear from the side that's advocating for row posed high brit system of representation first and then hear from the 10-1 proponents.

If that is okay, we will proceed in that way and you can divide up your time however you want to.

Ann, are you going to speak first?

Anyone else you plan to help you out can come up also.

But we're going to hold to you about six minutes total is that we are we'll do our very best.

I will just introduce the subject by saying that -- I'm the vice chair of the charter review committee.

We're here today because we think voters should have the opportunity to vote for a hybrid district and that's primarily for three reasons.

We believe it offers greater representation with the opportunity for austinites to vote for four, not just two council members.

We think it is more inclusive and fair for all constituencies and we will speak to that more in just a moment.

We also think it is a proven, legal and fair system, supported by the lit fire tore fair government.

I would make it make the point that we are for change, single member districts are important, we think the hybrid approach with that is important and it is fair, more balanced, but it is change.

So, with that said, I will turn to richard young first.

>> Good afternoon.

I was hoping it would be good morning.

>> Bestrongly support a hybrid system of single member districts and at large city council positions and for the following reasons: Overall, we believe a hybrid plan is the best plan for austin and its citizens.

All of its citizens.

It allows for better local constituent services, small and dispersed populations such as the asian american community and preserves flexibility for the future as demographics and needs for austin change.

The hybrid system single member districts allow neighborhoods to have local advocates on the city council, someone more responsive to their interests than someone who must look to the interest of the entire city. At the same time, the asian american community is the fastest-growing population in the united states according to the latest pew center research study released.

We make up 36% of immigrants 8% of the population of the united states, however the number is growing and that is reflected in the population of austin where we're almost 7%.

These numbers fairly reflect our situation in austin and our concern with the method of city council representation have to encompass both our small numbers now and small and dispersed numbers now and larger and potentially more concentrated numbers in the future.

The hybrid system meets both these needs as they do for any other community in austin.

Allows small and dispersed minority groups such as african-americans, gay and lesbian communities and others have better chances of electing one of their own, as the empirical studies in our white paper show on our website.

And is shown in real life.

The hybrid system allows the groups and other a safety outlet, a place to appeal to, should their representative hold a position that is counter to their interests.

This is critical for the asian american communities that are subject to discrimination and harassment it hopes to give the hispanic population in austin outlets should they be subject to cracking and packing.

An example of packing would be one of the districts in san antonio, which is an all single member district city which contained 95% hispanic population.

That kind of redistricting dilutes the hispanic votes by packing a majority of the hispanic population in a one district.

The future is always uncertain, especially in politics.

As we look at texas and the south we changed radically and affiliates over the last 50-plus years and the changes we make to the system today will perhaps impact us for the next 60 years.

Finally, we know there are competing plans and the citizens of austin understand what is the best for the future of our city so let's not restrict what is placed on the ballot and curtail our ability to vote for the plan of our choice.

Thank you and I'll turn it back over to ann.

>> How much time do we have left on this site?

>> A minute and a half.

>> I will take 30 seconds and will state my support for the hybrid.

I was one of three african-americans appointed to the charter review committee.

We need change, we need to rectify past injustices.

I think the 8-2-1 plan is the best plan that can accomplish the multiplicity of things we need to do to bring austin forward as our city matures out of adolescence into adulthood.

>> Thank you.

>> About, 10 seconds, close by saying the charter review committee was essentially split evenly.

You know we gave you an 8-78 vote for 10/1 and after that sent you a letter saying they were not in favor of 10/1 so essentially it was split committee.

We think that reflects the fact there is a difference of opinion across the community and bethink people need a choice so we are asking you to put the hybrid on the ballot.

>> Thank you.

All right.

We'll hear from the 10-1 advocates, I believe led by fred cantu.

Come on up and you will have the same amount of time.

If you would like some kind of signal, we will let you know when you're about two minutes to go.

>> Thank you, mayor.

Good afternoon city council members, city attorney and city manager.

My name is fred cantu and I was the mayor's appointee to the citizens ceases where we passed, recommended 10-1 by a vote of 8-7.

If you will indulge me, I'm going to read a very brief statement from the chair of that committee, who unfortunately couldn't be here.

I was honored to serve and chair the austin charter revision committee, we went through a public process, spending nearly a half a year and heard from people throughout our city.

We urge you to support the recommendation of the crc for the 10-1 plan.

It is time for 10-1, it has the necessary signatures for the signature to go on the ballot and it has the community support.

Now, it should be put to the voters to decide.

Without having another measure that would confuse the voters.

That is all he wanted to say.

Very briefly, I just want to say, when the mayor asked me to serve on this committee, I was ecstatic, I was gung-ho because I spent most of my life trying to get voter participation, and you know it is really slow in city elections.

I was also very, you know, anxious to talk about yeah oh graphic reputation, I'm from south austin, but also may norrity representation, you know, those are the things that really, I think a 10-1 plan will take care of.

Hispanics almost represent 40% of the population of this point and I think we need that kind of representation.

I will pass it on.

>> Basically, I would like to make two points.

One, I think there is only really one plan that has citizen support.

In front of the charter revision commission, the overwhelming number of people who came in front of us supported a single member district system, 10-1 with an independent restricting commission.

The only support I see out from groups in the community, the police, the league of women voters, the stick neighborhood councils is for 10-1 system.

I see no organized support in the general public for another proposal.

I do see support with inside the political elite class for different attitudes and perspectives, but with the public itself, the only proposal that has support and broad-based support is a 10-1 plan.

The second point I would like to make is that for the charter revision committee, as well as for the people who came in front of us, having an independent restricting commission was intricate to what we proposed.

Because the commission stood, committee understood as well as the citizen, there they were drawing the lines with set criteria we would end up with jerry jerry manderring, not because they are bad people but you have a self interest in the system that elected you and self interest in being re-elected and that has occurred under conservatives, liberals, democrats, republicans, it is disliked here whether they are republicans or democrats so to have fair geographic young said, we need to have a process where elected officials are not drawing the lines.

And for the committee, there was only one person who was opposed on the independent restricting commission.

He is a wonderful political consultant and I'm good friends with him, but the rest of the committee thought it was necessary that we have a political citizen driven process, except for one of the members who favored an independent commission from germany, but 12 of us thought we should follow an american model which works well in california.

>> Thank you.

I want to second my colleagues, as well that over a period of six or seven months we have a lot of public testimony on the 10-1 system.

But beyond the testimony, there are other observations, for example, inequality.

A lot of organizations or communities that had no representation at all.

The first question is how do we tree ate equity in this city.

10-1 Has 10 equal districts.

Nothing else produces that.

Also any time the apa, firefighters, league of women voters on the same page, that's a good thing.

It is also an example of folks who have different idea lodgele bases -- ideological bases that can work together.

This is such a diverse viewpoint say they want equity, why is it so difficult to understand?

I am proud to be appointed to this committee, although I'm disappointed that other recommendation wasn't accepted.

And by the way, we had a majority vote, and clearly, in termses of the response we had a majority so the facts here that at-large systems tend to dilute the representation, which will

probably produce some kind of a challenge legally and the city of austin right now with many issues, especially hispanics and african-americans are not even being addressed that should he consider the single district system.

And this empowered my minorities and those are the folks left out of the city.

Think about equity, fairness and equality of opportunity.

Thank you very much.

>> Thank you.

Council, we have several items on the agenda that were late to this.

83, 84.

On oath.

>> 91?

>> That page too, yeah.

So we've got four items here and so we'll just open it up for discussion.

Council member martinez.

I want to suggest we put a time certain on all of these items because I can we will have citizens that want to hear and/or address each one of these items instead of trying to weave them in through the day whenever we get that free moment to do it, let's just at least have, I would suggest a 4-point time certain so that we will take them all up at the same time.

00 p.m. time certain for 83 and 84.

And I guess the others, I was thinking they might pass on consent, but I will be glad to.

That is your request, we'll set them all for 4:00 p.m.

>> It is.

>> Mayor.

council member morrison.

could you ad ad 89 on that also, I had a question for all charter related ones to 00 and that is charter related.

all right, we will add 89 on that list.

Set for no sooner, no earlier than 4:00 p.m.

Okay.

Anybody else want to discuss?

Mayor pro tem.

I believe we're going to postpone item 91 so let anyone know that is not going to be discussed, I want to make a motion so they don't come down.

>> We will make a note of that.

Just note that there will be a motion to postpone it.

Okay.

Council member tovo.

>> I'm sorry, I don't want to get us off track but you could let us know when you think that might be coming back?

>> We are still in discussions with the jewelers and the police department, and so we certainly can't and won't bring it back before break.

I'm thinking august, the second meeting in august the 2nd or 16th.

>> I've submitted some questions to the q&a process and I will say briefly I want to be sure that in among the stakeholders that are being consulted, beyond jewelers, antique dealers and i offered some suggestions to my questions because I believe they fall under the second hand legallers and in talking to them, they were surprised and concerned about that, so if they could be rolled into the discussion that would be great.

>> Okay, thank you.

>> Mayor.

council member martinez.

are we now to the point we will talk about the items themselves?

we are, talking about four items, supposed to be, 83, 84, 90 and 91.

I guess we wrapped 89 into that, too.

I want to start, mayor pro tem cole and I have an item on for this week that does speak to the representations of the charter revision committee.

It doesn't specifically enumerate the independent restricting in the petition drive and I did that purposely, as I'm going to ask, there are some concerns that some of the language in the petition as it established independent redistricting, which I'm completely in favor of, could create some problems so while I support independent restricting I want to support something that is legal and stands the test of independence that everyone is seeking.

just to make sure that we're having a discussion that is properly posted, I guess we could say the reason for your posting of item 83 was because of descriptions, perceived discrepancies in the petition item can we do that?

that is one of the reasons.

But, for me, more importantly is, I didn't want to not have this conversation and then this petition be turned in and put on the ballot and later point out to the people who worked on this there may be some reports or flaws in the language.

I didn't want it not to be said before we either put this on the ballot and vote in favor or against it because I think it is critical.

As Fred said, the key component to their recommendation was having an underlying commission that draws lines and redraws them, which I support.

What is problematic is that it is modeled after California and California state statute isn't what we go by here in Texas, and so directing budgetary items, directing the city attorney, directing the city manager and the council via petition under your reading, that becomes problematic, is what you have told us.

>> I certainly share some concerns that there are some issues latent in the way the agr proposal is drafted and you hit a couple of the high points.

It causes me some concern that the proposal calls for, and I'm going to paraphrase a little bit because the wording in the provision is somewhat confusing but I'm going to take what I think is the gist of it.

It provides, among other things, for the independent restricting commission to have sole authority to respond to litigation that challenge as plan adopted and the background for that is, the whole idea of the independent restricting commission is that it takes the development and adoption of a districting plan out of the hands of council and vests that authority solely in the redistricting commission.

When I say an adopted plan, it is a plan the commission itself will have adopted.

I am concerned that it takes the authority to direct defensive litigation out of the hands of the city's legislative body.

Staff has other members of the city attorney's office and I have discussed this, although not exhaustively, and there is some concern that because what goes along with that also provided for in the express provisions of the agreement proposal is that -- proposal is that council shall fund the operations generally of the independent restricting commission, may run afoul of state law provisions that place that authority, the budgetary authority in the council.

In other words that provision might require council to do something that has the effect of usurping that budgetary authority and that is sort of a back door way of complaining to the removal of that authority of that body, but my own view is that that legislative decision for handling the litigation is also something that probably should be left in the hands of the council.

I won't be able to point to you today and maybe ever to a specific provision of state law or the state constitution that preclude vesting of some kind of authority of sort in an independent restricting council it would have to be a provision of the charter and something you could not accomplish by ordinance, and we've touched on that before.

With that authority to handle the litigation comes the authority to not only develop and choose defensive positions and defensive tactics but the possibility also of agreeing to settle that litigation.

And in federal voting rights litigation, the form of settlements of challenges to districting plans can take a lot of forms.

In the most extreme example, amount to an agreement which would then presumably be sanctioned by the court to alter the structure of the council.

Now there are federal cases that may council but there is a limit on that, if the structure of the council is specified in the city charter, which it would be, if the restricting commission or this council would be unable to agree to a change that would violate the charter provision.

>>S aspects of a change of structure there could be agreements, for instance, in settling litigation to pay attorney's fees to the plaintiff's attorneys, which might be plural, which can amount to a very large amount of money, a direct effect on the city's budget, and something that I think runs the same risk of presenting problems of authority for taking that budgetary supervision and budget setting authority out of the council's hands.

There are a number of other, perhaps less provisions that are perhaps less concern, but nonetheless some concern.

Most of these are practical rather than legal, but let me move on the remaining legal issue we see.

One of the aspects of the agr proposal is it sets specific redirecting criteria that the commission is to apply.

But I have to say that, with one exception, those are criteria that my firm, when we do restricting and advise local governments, advise the local governments to adopt at their standards so I have no quarrel with most of them.

The one that I have a bit bet of a problem is is that it provides the agr prosuppose sal, provides the independent redistricting commission shall not consider, certainly in an affirmative way, shall not consider the residential addresses of incumbents or potential candidates.

, if that is where you go to get the pre-clearance, we will look at a standard called retrogression.

Draw a sitting minority uncouple bent out evidence his or her district.

And while I would not suppose that an independent redistricting commission would draw a plan that did that, the prohibition of actively considering the addresses could lead to that result.

So I think there is a potential legal issue with imposing that standard, as well, some of the other practical issues are issues that involve drafting problems, for instance, if the agr proposal were put on the ballot and passed, it would become a provision of the city charter.

It will be in contradiction to certain provisions that are already there.

The usually format for incorporating a new provision is to have specified the provisions that it will delete or replace, and it makes no provision of that sort.

So it will be up to staff to sort out the potential conflicts of sections in the charter that are there today that might get displaced by this.

That could be accomplished in a subsequent charter amendment election by a clean up, but until that happens, you could have competing provisions.

To give effect to the new amendment.

The other general proposition of that sort is that a specific provision, that is a provision that is very specific about a certain thing, typically override as more general provision that might be contradictory, so it is not that they're going to leave the charter uninterpretable or unenforceable but it has the potential to be somewhat inconvenient.

As I mentioned earlier, there are provisions in the agr proposal that put all of the authorities commission to hire its staff, it's consultants and lawyers.

And you are required to fund all that, without, again, consideration of what budget you may already have set.

So there is that same financial concern I referred to earlier.

One other provision that causes some concern, there is a provision in the agr proposal that says if the commission fails to act, or fails to adopt a plan by the plan adoption deadline that is specified, the city attorney is supposed to take the issue to a district court here in the county and ask that court to develop and impose a plan.

Even were that a good solution to the problem, the charter amendment like this or charter provision cannot establish jurisdiction of the state court to do that thick.

And I question whether district court, absent a light challenging a plan, would have that authority.

So there are a number of those kinds of practical and partially legal concerns that cause me some heartburn.

>> So, setting the practical and the logistical concerns aside, if, when this is placed on the ballot, because I believe it will be, and if it is adopted by the citizens, those points that are deemed not legally enforceable, does it nullify the entire petition or just those specific points?

>> Typically, it would just be those points and the issues would not arise unless the situation underlying it arose.

And called for specific construction of and application of one of those provisions.

>> And so, how do you remedy the other point that you mentioned where it doesn't specifically state what happens to other points in the charter that are now conflicted be should this be adopted.

Highway does this body or this community legally change the rest of the charter without having a charter election?

>> I don't think you can change the charter, and I'm going to watch, john is nodding, if he quits nodding then I've gotten it wrong.

You cannot change the charter itself without formally amending it.

So the situation that you're asking about is one where a conflicting provision would somehow be under consideration, and there would be a dispute about how to apply the two of them to the degree they can be applied together and maybe the conflict would be irreconcilable.

In that case, there are interpretive rules established in the law to say which one is the prevailing provision.

In general, it is going to be the latest amendment.

So, the city attorney would render an opinion on the legal construction of the two provisions, the conflicting provisions or competing ones and council would take that advice or not the possibility exists that someone would challenge that and that would be presumably in the form of a lawsuit.

I have to say, relatively unlikely but not out of the question.

so, potentially, the legal issues could -- if they're not enforceable legally, they would disappear from whatever is enacted.

>> If we think they're not legally enforceable and you attempt to enforce them and someone challenges you, you would be told not to.

we would have to get to that point, whatever sentence that we're referring to, whatever problem we're referring to, such as the independent restricting committee, not coming to an agreement on mats and then therefore come belling the council or compelling the city attorney to go to state court to impose, then, at that point, if someone challenges it is when we try to answer this question?

>> In that specific instance, my -- ask or the district court on its own will decline to accept jurisdiction of something it doesn't think it has jurisdiction over.

If it accepts jurisdiction, the possibility exists that somebody else could challenge that and it would go through the normal judicial process.

There is also the are possibility that the city could ask for an interpretation from a court.

There is a mechanism from that, it is called the declaratory judgment act and you could pose that question, resolving the couple of the charter provisions to a court and get an answer that way.

>> Can I ask, the quick, same line, you could lead us through that same process?

You talked about the petition being able to direct money, settlements or otherwise, being able to spend the taxpayer's money.

How would that work, just step-by-step.

>> They come from different places in the proposal.

One aspect of the proposal is the direction to council to provide adequate funding for all of the operations of the independent redistricting.

>> So what if the council didn't?

>> In principal, the commission could file a lawsuit compelling you to comply with the charter.

We get into all kinds of questions there about the legal status, which lawyers call standing, which is basically a way of saying, are you, the body or the person, authorized to bring this lawsuit or not.

On the assumption that the charters provision would give them that standing in court, they would, in principal, have the ability to ask the court to order the council to provide funding going forward.

The lawsuit issues are potentially very come indicated, there are immunity issues, as well, and I don't think you really want that discussion today.

But the process would be a court process.

The settlement question comes from a slightly different place.

It comes from the provision in the agr proposal that provides that the independent redirecting commission have sole standing, is the words it uses, to control the letgation.

To defend a challenge, to any plan that is adopted.

And, I think the same kinds of considerations apply there.

And that provision, in essence, directs council to fund that litigation.

Doesn't say it in wait those words but that's the just of what's there -- the gist of what's there.

and so the reason i wanted to have this conversation, obviously, i support 10-1, I will remain supportive of it.

But, I want us to understand this independent redistricting proposal doesn't necessarily create what I think was intended.

There are inherent issues.

It is still filled with politics that we require the city auditor to take applications and call it down 60 people.

The minute it called 200 names down to 60, we're going to have 140 very upset people coming to us, elected officials, saying why did he eliminate me from the process.

The second set, the council may strike one name each, again, very political.

In the last step the eight members who are finally selected through this public process, the whole entire way, the last eight members get to vote on who the file final six members are.

You talk about injecting politics, those eight are untremendous pressure to balance out or tip the balance or pick the right -- and if we do this in a random process, is as proposed, randomly selected, what happens when everybody gets elected east of i-35 or more likely, everybody west of i-35, politics will come into it and they will come to us want us to fix it but because it is in our charter we won't be able to fix it, we won't be able to do anything about it.

I get the intentions, I support independent redirecting but what I've discussed with folks who wanted to discuss this issue with me is I still think the council should retain its legislative authority at the end of the day.

I don't think we should draw lines in districts, I don't think we should pick people to serve but we should retain the ability to ratify any process and/or amend it at the end of the day.

If there are inherent problems, this is the body that this community is going to come to and ask us to if you it.

Fix it.

If we don't have those provisions available to us, we could move forward with a broken system that is extremely political and devisive in the community.

It we, as a council, want to set a super high threshold for amending on changing anything in the redistricting process, I'm open to that, whether that is unanimous council or two-thirds majority.

The bottom line is, at some point I still think the legislative body has to have some level of retention of legislative ability, and, again, that's not to say that we change anything or that we eliminate or add people, but there will come a time when, if we don't retain that authority, there will come a time it will be brought to us and there won't be anything we're able to do .

That is why I'm supporting the 10-1 item on this week's agenda with a nod to independent redistricting but not specifically in the petition drive and I'm hopeful that enough council members will support that.

I am concerned about putting a competing measure on the ballot.

I think it is unfortunate if that happens by support the will of this body and if that is what this body wants to do, that will happen.

But the last time we went through in in 2006, we said nobody participated.

Nobody came to the charter revision committee meetings and nobody really cared about the issue.

So, by a vote of 4-3 of this council, we didn't pit it on the ballot.

This time, we struck up the charter revision committee and we had a lot of participation and we have now a grass roots movement with potentially 30,000 signatures, and we have, i think, a broad consensus of change where we're disagrees is how we make that change.

I think we all agree that we want to get away from a totally at large system, but for me, at the end of all this process, it does come down to a point where I have to respect and honor the work that those citizens chose to do on their own to get those signatures and I won't be supporting a competing item until, if and until, I know that they have the valid signatures and this is on the ballot and then I will make up my mind at this point but I believe we should respect that are work, allow them to turn in their signatures, see if they get it on the ballot and come back at a later date to determine if we really want to put a competing measure on.

I can't believe we're honoring the system that we put in police and the citizens that we put in place to make that recommendation to us.

And they've done it .

And yes, it was split and maybe it was split even, but, again, i said this before, we voted 4-3 on water treatment plant 4 but we're building a \$508 million water treatment plant so that happened quite often and they did make a recommendation to us and I think it.

>> And the we respect that and honor it and that's why I hope you will consider 10-1.

I want to ask a quick procedural question.

We have items 83 and 84 both on the agenda for tomorrow and note this is legal advice or not, but I think it is procedural, obviously they're come peteing items, so I know in the past when we've had competing items the way it was handled is, which ever one of these items passed, the other one would be withdrawn from the agenda because it was in conflict, so just let me know, we need to know how to handle this procedurally.

>> Furniture robert's rules of order, that the council follows, that is correct.

Under robert's rules of order, if you have competing items on your agenda, the first item to be taken up and adopted makes the second competing item not eligible to be taken up for consideration.

>> That's what I assumed.

I just wanted everybody to have a heads up council member spelman.

83 and 84 are not competing ates.

They may compete on the pallet but not for our attention, we could pass them both and put them both on the ballot.

As a measure of fairness, we might informally agree if one passes the other be withdrawn.

But there is no legal requirement to be withdrawn, i could pass them both.

>> I believe you could.

I was answering the question relating to competing items on the agenda.

I think, of course, you could have both of them on the ballot, as long as you know when you ask the citizens have to ask yes or no, and there is no problem with that particular issue.

>> At some point, we have to come to grips with the issue of what happens if both of them pass, who whichs.

>> Correct.

all three of them.

terrific, we would have a 21-8-3 council.

>> I'm not sure I follow that one.

[Laughter]

>> I think that is an issue we probably want to discuss in executive session.

I think we discussed that issue before about how we would go about trying to resolve a conflict like that.

I'm not talking about entering that discussion right now, only that we will have to have that at some point.

>> Correct.

let me get to the point I wanted to get at this, is important to me, at least.

It is important to me, mike, to say you had me until you started talking about water treatment plant 4.

If I left that out of the discussion, I would be with you.

>> Got you on water treatment plant 4, too.

in a different way, did you.

That's true.

[Laughter] now I'm really not with you.

At what point do we need to vote for or against any of those proposals.

>> We have until august 20 to set the ballot is that accurate?

>> City legal.

The legal deadline for calling the meeting is december 20 .

We have two meetings in august and we asked council to wrap up work on the charter amendment items by the august 2 meeting knowing the august 16 meeting is the only meeting which we can address the bond item.

As a working calendar, council is working towards august 2 at the latest but there are two council meetings in august.

>> Let me offer you a scenario and see how you can handle it.

I would like to know, as i believe council member martinez is in the same position, I think it is what you said a minute ago, that I would like to know what happens to the agr petition, whether it makes the ballot or no before a final decision what we put on the ballot which may or may not compete with that.

At what point am I likely to know the agr petition is on the ballot.

>> The city clerk's office prefers 30 days to assess a petition in letting the council know if a petition is ballot.

So in the absence of a special called meeting it would need to be submitted at least 30 days in advance of the august 16 meeting to make a regular-called council meeting an option.

But those are all in pencil.

Those dates.

so whoever is vetting the signatures needs 30 days to vet the signatures and you would be able to tell us if it was submitted more or less THE 16 16th OF JULY.

>> The clerk's office may want to speak on this matter.

>> That would be an excellent item.

>> As you know, we had a number of inquiries about different petitions floating around and so to try to guide our collectors, we gave them a calendar that said ideally we would like to SHOOT FOR AUGUST 2nd, SO IF YOU COULD FILE BY JULY 5th, IF You wait until july 19 ad, the

earliest that we think we can get it on the ballot is august 16 ad, so it really -- it doesn't necessarily take us 30 days, but until we see the petition and know what kind of condition its in, given the very small staff that I have, we throw all of outside resources at it and try to turn it around as quickly as we can but we didn't want to make promises we couldn't keep.

>> Given the large numbers of people collecting signatures for the hgr folks I imagine this is close to a worse-case scenario in terms of handwriting, levels of sloppiness and so on, i imagine you have a lot of work to do.

They turned it in as late as the 19th, YOU'RE PRETTY SURE YOU Could get it back to us before the 16th of august meeting.

>> Yes, but as said, that puts council then in a no-win situation.

We have no wiggle room and that's been our concern all along, we want to honor your time and energy, too.

>> You're urging them to turn in on the 5th of july.

>> Yes.

>> Have you heard back from the agr folks if they're likely to honor that over?

>> We have not.

>> Thank you.

>> You're welcome.

>> So assuming the worst-case senario, which is always a good assumption inside this building, they turn in the petition, that was intended as joke but I guess it was not that funny.

Turn in their petition on the 19th of july and city clerk's office is able to flip it around BEFORE THE 16th, WE KNOW ON The 15th at midnight, we know whether it made the ballot or not could we post an ice as a null item several days in advance, which we take up if, i imagine we can do this, I'm answering my own question so it is not necessary, so we could TAKE IT UP ON THE 16th, IF WE Could take a decision on all three readings on that date, we could get something on the ballot.

If we didn't, we could hold the possibility of a especially-called meating to make the august 20th deadline.

Is that accurate?

>> If there was uncertainty on THE 16th, THE 72-HOUR POSTING WOULD PUT US ON THE 19th.

So anticipated postings factored in staff could accommodate you.

>> There is a way of doing this on the 16th even if we haven't got enough votes for all three readings at one time, we could handle it?

>> It would take some planning, but yes.

>> I'm gauging planning now, that is why I'm asking all the questions.

>> We do need lead time to prepare the back up so at the point which you're actually voting on the ballot propositions that will be on the ballot, there has to be something in front of you that you're voting on, and so it's, would be a very bad situation for you to be making the policy decisions and us having to create the back up for those policy decisions at the very same meeting because there would be no opportunity to review the back up.

>> Sure.

>> For any errors or inconsistencies under that situation.

>> I agree, but you think we're really talking about either something happens or it doesn't.

If agr makes the ballot, thin one thing.

If agr doesn't make the ballot then another thing, then that allows us to plan pretty accurately in advance because only an on-off switch.

So long as we start working on it right away, we don't have any worried about a back up.

You won't have to make it up on the fly.

>> If all the policy decisions are in place before we get to the absolute last opportunity for council to act.

>> Just, council member, if i may, I think what you're saying is you have to know what the ordinance says before you prepare the ballot language, right?

>> Route I have to understand the council's will.

>> We have to prepare the ordinance before you can start drafting the ballot language, and then the ballot language has to be approved too, doesn't it?

>> First the council has to tell us what it wants, then we have to write that down and then you have to have that back up in front of you and say, yes, what you wrote down is what we want and vote to enact it.

>> I think what I'm saying, what I'm trying to say, maybe I'm wrong, is that we couldn't come back on August 16 past the ordinances on August 16 and then have the ballot language that same day put up to vote on the ballot language.

>> Well -- ballot language.

>> It depends what you mean by ballot language.

>> The language that appears on the ballot.

[Laughter]

>> yes, sir, but some people use ballot language to mean the actual amendment that will occur if it is passed.

Each ordinance that proposes a charter amendment will have on it a phrase that will appear on the ballot to be voting yes or no on, and that, I guess, is what you mean by ballot language.

So that is created as we go along, so as you decide to adopt an amendment for the, to place on the ballot, the ordinance that does that both sets the phrase that will appear and sets out all the changes that will appear on the charter in legislative format if the ballot proposition passes so those two things happen simultaneously.

But what needs to happen, part of the policy decisions have to be made so we can translate those into an ordinance that sets out the phrase on the ballot and actual changes that have to occur throughout the charter to give effect to that.

We need a little lead time on that.

>> And that is, that's just going on past experience, that takes normally an executive session to discuss the ramifications of ballot language and so forth.

It is not as simple as it might sound.

And the ballot language, even though it appears in the ordinance, which I now understand, if parts of the ordinance were restricted you have to revise the ballot language on the fly.

>> Right, if the phrase no longer described what was happening because of amendments that occurred at the meeting then the amendment language would have to be worked out, too.

When you're drafting on the fly like that, it increases the possibility of error.

>> Having had the experience of being sued once and lost over ballot language, I know it is kind of critical to get it right.

Council member spelman.

so what this means, practically is how much time i do need to put the ballot language together?

>> It would be preferable to have everything in place with all policy decisions made and everybody happy with the ordinances in back up so that when we came to the meeting it would be pretty much ready to be put to bed.

>> Okay.

So help me with this.

If agr is on the ballot, I'm going to feel one way and support one thing.

If agr is not on the ballot, I'm going to feel another way and support a different thing.

That is not your concern, that's just the way I'm going to vote.

We have several different proposals that are on our agenda FOR THE 16th, WHICH WE CAN ALL Feel free to vote however we want to, but they are all self contained in the sense that they all have the ballot language in your sense of the things that will change in the charter if the provision passes and also the ballot language in the mayor's sense, all those things are completely self contained by THE 16th.

Do we need to pass something on thursday in order to get to that point, or can we simply direct staff to prepare some things and do it that way?

>> Yes, you could do it either way.

Of course, from a point of view of making sure that everything is done in a calm and reflective manner, sooner is better than later.

>> Of course into to give you a sense of what is coming next, we talked about aig 2 being our date -- august 2 to be our date to call the november election and we will call the november election and address ballot order with a list of all the ordinances that council passed so far with blanks so you can decide on the order in a discussion on the 2nd so that will provide with you sort of a laundry list of what's done so far, either prior council members or tomorrow's council member, and that will be the november ballot except for the bond bond item because we can don't that on the 16th that will be the november ballot on august 2, that will show you how it will sort of look so any changes would require coming back to that ordinance.

>> Okay so we will pass that.

Your idea here is we pass on all three readings if we need to make revisions to accommodate bonds, for example, if you're COMING UP ON THE 16th.

We would revisit it and add some stuff to it.

>> That's the working calendar we've been working towards.

>> That sounds like it is consistent with what I've been discussing with mr. steiner.

That sounds reasonable.

I have a political question but I don't want to get in anybody else's way.

I have a couple questions of some of the people who came to talk to us earlier on the single district issues.

Mayor, would that be appropriate now?

>> A couple of quick questions before you leave here.

Don't we have to provide for the potential of having three different meetings to pass that's ordinances -- these ordinances.

>> If we can only achieve first reading on the second, there will be future meetings which we can do the 2nd and 3rd, whether they are the regular CALLED ON THE 16th, AN Exception for a work session.

We can do like we do the budget, scheduled three days and cancel them if you don't need them.

>> I think we have three days in august, I believe the 2nd which is the regular council meeting.

There is a work session, i believe, planned for the 7th and the council meeting on the 16th so I think there are already three dates available if necessary, but of course we're ready to post additional ones.

>> The 7th work session is set up for the bond discussion.

>> So a special called for bun of one of the three readings.

>> At least.

We don't know what is going to happen thursday yet but we can -- just trying to get ahead a little bit.

We wouldn't to have three separate hearings.

That it happened a couple of times, every time we have a cab ordinance, for example, council member morrison.

>> Thank you, there are other topics to discuss that.

>> I understand wanting to gather as much information as possible before one makes a decision but obviously leads to scheduling issues and one thing I wanted to throw out there is that we can -- we have the potential to make a decision on Thursday and amend that decision in August, so that's always a possibility that could lead us down a little bit more a line of a little bit more certainty.

And then the other thing I'm wanting to ask about is, this concept that, so we have item number 83 and 84 and they are posted almost the same.

In terms -- I know they are very different, so here's the thing.

Only number 84 is posted to provide for the drawing of geographic districts but, in fact, 83 and 84 do provide for the drawing of the districts.

They both say they would be drawn by ordinance.

Is my reading of it.

What I'm trying to figure out is the whole discussion of how we draw districts and I certainly appreciate your comments, council member Martinez, about trying to find some way to do it independently, I'm interested in knowing if we would have the opportunity should a majority of council be willing under number 83, which is not posted in terms of, to provide for drawing of the district, to actually insert some language into the ordinance that is more specific about how to draw the districts then just do it by ordinance.

So, basically, what I'm thinking is if we wanted to, if the majority of the council was interested in some kind of independent drawing process, can we insert it into either number 83 or number 84.

Yes, you could.

>> I sponsored 83 in that language, I certainly there was no intent to discourage the citizen participation process, but in the drawing up of the ordinance that could be decided and I wouldn't have any objection to some kind of statement to the effect that ordinance would include a citizen participation component.

>> Well, and in fact, maybe now is not the time, I now council member Spelman was interested in talking about something else, I was just talking procedure, but I'm very interested in brainstorming about some kind of mechanism that's maybe halfway between what's foreseen on the agr petition and just doing it by ordinance or just buy council participation and have ideas to throw out to converse on that and I'm just going to throw this out right now, to think about, and that is, it seems that we need to have some kind of independence, but my son says there is a discomfort of giving away and completely divorcing, that's the word, divorcing the council from the process.

And so, one thing that came up -- separating, divorcing, which ever.

One possibility for redistricting could be that, you know, we have a commission that has chosen, somehow, and some way, some manner, I don't know what that is, that's not too cumbersome but seems fair, and they come up with a ask -- if they don't ratify it, it comes back.

And the question is what happens if they never ratify it and, as you said, council member martinez, you know, it could be a really strong vote requirement or something like that.

The other idea is, since we can't just ask a district judge to do it for us, to be the the mediator, I don't know if there is another way to identify an independent arbitrator, or we could say if it is not raddified within a certain number of times then the old map stands.

So, in that way, somebody could challenge them, then guess what, if you have the courts making the decisions for you but we weren't allowed to ask, i haven't thrown this out before for the attorneys, but I want to throw that out there to see if there is some way we can get some kind of combined interaction there.

You do have any comments on that, mr. fox?

>> One thing to rely on is the keeping of the old maps.

>> Are are we we quired it redistrict, is there a through says we need to.

>> The united states constitution has an equal protection in it that is interpreted by the courts to require what is called a one-person, one-vote population equalette on the districts, so on the assumption you have single member districts and the new census, whenever it occurs, shows they are out of balance and it is about a plus or main news 5% so within 10% top to bottom as we talked about before, if they're out of balance, the lucky plaintiff's lawyer that gets to file the lawsuit, says you are out of balance, redraw, gets attorneys fees pretty much automatically for that one.

That is a very flipant way of saying there are legal risks because there is an affirmative obligation in effect to redry after a census if you are out of balance, and there are so many come indicated be conversations under not just that provision, but the voting rights act, that out of experience I would say one of the big reluctances you have have is to have the federal court draw your plan for you.

>> Are there any instances that you can -- well, I guess I would just invite anybody to offer ideas of how to get that independent arbitrator in the case that if we did do a commission and ratification, that would be able to take over if it just didn't work out, and my thought is that if we could find some end of the line decision-maker that the council and the commission in general would really rather avoid, then that puts the person on to find some kind of proposal that works from both sides.

>> Probably needs to be something that both sides prefer to avoid.

>> Slightly.

So I guess I'm curious as to whether there are examples out there in the nation of finding some kind of --

>> one possibility, I'm not suggesting pro or con, it just occurred to me as you were talking is to provide some kind of ratification process which could only be overridden by a super majority vote.

It was not overridden by the super majority it would become the adopted plan and that might raise the bar in the way you were talking about and I simply put that out as a logical alternative, not one that I've actually given consideration to, I don't know there is a legal option there.

>> I think that combined some idea I could throw out into this so I'm really interested in sort of brainstorming some kind of option.

>> Let me say this whole discussion is tip of the iceberg as to why I avoided any kind of details discussion of that, just merely saying that the districting process would be done by ordinance, doesn't have to be part of this, doesn't even have to be done by these deadlines, by the august 2 and august 20 deadlines, what have they are, because those are deadlines for making charter changes.

Just needs to done before voters go to the polls.

The actually drawing of the ordinance as how to you the districts are created and hopefully, they can be done that way.

But that was -- I'm just explaining my rationale as to why it didn't get any detail there.

>> I appreciate your pointing that out because I didn't read this language that way.

It says the boundaries of geographical single council districts shall be drawn by ordinances and I tack that to be that council would draw what they are.

>> The ordinance will determine how they are drawn and what they are.

Not what they are but how they're drawn.

The ordinance could create a citizen participation process, as well, ratified by council, of course.

That was my thought and you can correct me if that is wrong.

>> Mayor, I had a brief comment on that same point.

I agree with council member martinez, I share with council member morrison the idea we need comments from citizens in some preliminary maps and one of my ideas is the ordinance or

maybe even thursday we could say we change the language to say we would have a citizens commission that would make recommendations to council and I thought we could use an existing commission, potentially the ethics commission.

>> Well, again, that's fine but I was saying this is not -- you don't face the same deadlines, if you agree to do it by ordinance, you don't have all the looming deadlines that we have in august.

>> I think where we're going is exactly where we have to go.

I know people on the charter commission have given a lot of thought to the independent districting commission they did what they did for very specific reasons, although our lawyers have suggested that they may have missed the mark in a couple of places I would like to give them an opportunity to defend what they did and maybe help us figure out what it is we can do to fix the legal problems and maybe the procedural problems created by the work.

>> Mayor?

pound of order?

>> No, you want to make a comment.

I don't want the agr folks -- I'm using your words, you said let them defend, I'm not attacking them.

I don't want them to feel that way.

This is not an attack.

I want us to have the conversation beforehand because what I don't want to happen, after it's on the ballot that we point this out and they come to us and say you knew this all along and you let us move forward with some legal concerns.

So that's all.

I don't -- that lean want to hear from them but I don't want them to feel like they have to defend themselves because I'm not attacking them by not agreeing to all the language.

>> I didn't perceive that as an attack at all, you think we're figuring out how to make it work.

I will be more careful in my use in language, at some point in my life.

[Laughter]

>> or after.

>> Maybe after, that a theological point we don't know to get into right now.

I know we have a lot for thought.

just for the record, this isn't our normal procedure.

If there is no objection from the council, we will go ahead and allow council member spelman and others to ask questions of specific people but that is not our normal work session procedure supplied supply understand that, mayor, but I understand that is why we wanted to have them here to ask questions.

>> It is now legal do it.

They were invited here to give their testimony, but as far as direct involvement in the discussion, that is something that we just got approval from the council to do, which is a deviation from our rules.

>> I appreciate the indulgence of the council.

If nobody raises their hand and so no in the next three seconds, I'll ask the question.

Fred, tell me, you followed the discussion we had up until this point.

>> Sure.

>> You do understand the concerns laid out by --

>> I have a lot of respect for said falk but I don't agree with him.

>> Okay.

Why not in.

>> For a couple of reasons.

First of all, this pro proposal follows very closely california's statute.

California statute was challenges in court, it was upheld.

Independent redistricting commissions have been challenges by partisans elected officials, interest groups, across the united states.

They are all different about they basically have been upheld so I think the presumption is the courts will uphold this sort of provision.

The second thing is what it was basically arguing is a separation of a powers argument that somehow or other the citizens commission intrudes into the authority of the council.

One thing thing syd might agree with me, separation of powers in case law is very complicated, very hard to predict.

But one thing we know is that all power in a democrat resides with the citizens.

All the power comes from them.

Even the legislative power.

And it is my belief that in this situation, which is a very unique situation, about protecting the integrity of the democrat process, but the drawing of the lines, that california's process is a reasonable process for making the entire governmental structure work.

>> The authorization for the lay and the budget be outside the council, that said, the notion that there is no control on it is not true.

Because there is a court system, okay, and there is a council, and as it said, you have to add adequately fund the staffing, okay.

Well, that's standard and it can be argued about, but evidently, in california they worked it out.

It is something if it isn't worked out it can end up in the courts but everything can end up in the courts.

The other thing is, if it about to turn out, which I do not believe likely that somehow the budget authority of the commission or the legal authority of the commission were held unenforceable that doesn't prevent the commission from still functioning that just means you would have more control over the budget and the legal decisions.

That doesn't mean there is any reason based on those arguments to give you ratification of the process.

The basic bottom line when you get through it is that this is a political argument.

This is a policy argument, who should make the final decisions in the lines.

Should it be the citizens or you.

It is not a legal opinion, they've been able to pass single redistricting commissions and there is no question the courts will give deference as much as humdly possible to give the citizens desire solve an extremely problematic situation we have with jerry manderring.

This is an attempt to solve very serious problem, done by the citizens, and when california did it, the courts upheld it.

And let me tell you, every nuance was challenges because everybody wants to draw the lines themselves.

So, going back to some of the things, some of the descriptions of some of the problems and things, like there may be a lack of yeah oh graphic representation on the commission that's taken care of in he provisioned of it, the auditor does not pick the cam indications.

That is a misstatement.

The california process has been in place and it has worked very, very well.

So, the issue isn't law, it is policy.

So let's argue about whether or not the citizen should draw the lines or you should draw the lines or your agents, but let's not talk about somehow or other there is a known legal problem to this because I don't believe that is true.

>> I don't believe that sid or our lawyers were suggesting that there was a known legal problem, only they had questions or concerns and what you're basically saying, although there may have been questions or concerns in california, the courts upheld the california law at least the charter revision commissions recommendations were based.

>> It is almost word for word the california --

>> that is true.

And the agr ballot petition is becaused almost is almost identical to the recommendations of the charter revision commission.

>> Almost identical.

There are a few little nuances that aren't particularly important.

Like, for example, the agr petition says that the council members can reject one, eachth council members with reject one of the qualified applicants for the commission, the charter revision commission took that power away.

>> Okay.

>> Recommended that we take that power away from ourselves.

>> Okay.

I'm trying to be more careful with my words and follow council member martinez's suggestion.

>> But the notion that somehow or other this commission is going to settle matters itself in the courthouse, bealies the notion of how if this thing ends up in the courthouse how it is going to look.

There are going to be so many parties in there with the a court supervising it because of constitutional and other legal issues that the commission is going to be one player, and let's be real clear about one other thing and the notion if the council passes something it may not end up in court either, this whole area is contentious, and what's -- and sometimes the citizens and be powers that be decide not to challenge these systems, sometimes they do.

But whether it is done through the agr petition or done by your ordinance, the notion it may not be challenged or the map is not challenged, I don't think anybody with predict.

let me ask you a procedural question, and caution you, just because I'm asking an open ended question doesn't mean you need to talk any longer than necessary to answer it.

>> I heard you.

I appreciate it, thank you.

[Laughter] one of the issues I was concerned about is requirements for membership and we have put the charter revision commissions recommendations put so many restrictions on membership of the independent districting commission that it was -- it would be easy for somebody who has been intimately involved in the behavior of city hall for many years saying we're talking about political virgins, my apologies for using the term but that is what I'm hearing and there aren't many of those left in austin, texas, therefore, we may be having difficulty finding 60 people or 200 people who want to be members of this commission who are qualified to be members of this commission is that something you guys talked about at all?

>> We did.

I'm trying to remember how many california had, but it was tens of thousands of applicants there will won't be a shortage of applicants.

>> Go ahead.

Eye 10 you do know of any others that have this?

>> No, but texas is not a mode when it comes to jerry manderring.

>> Not being a constitutional lawyer myself but there are differences in state laws between state voice just wonders if we have a real good basis for comparison if there were another jurisdiction in the state of texas, not knowing what the difference between california and texas law is over, you see the point I'm trying to make.

>> I do.

But I also know the city is a home rule city and it has plannary power, unless the state statute is expressly in conflict with it, the city is going to be allowed to do it .

>> That wasn't my question, i want to know if any other jurisdiction in the state of texas had this kind of commission.

>> There are a number of other states but not --

>> not in texas.

>> Not in the great state of texas.

okay, thanks.

>> Mayor, may I follow-up on that point?

mayor pro tem.

in california weren't we dealing with a state as opposed to here as the city with a local entity and what would be the difference and what impact would that have on the analysis you're putting forth now?

>> Well, the city has plannary power, unless it conflicts with the state statute.

The city of san diego passed an independent redistricting commission.

There are other cities that have done this.

>>Cole: other local cities.

>> Yes.

And what I'm trying to say is the presumption is that it's valid.

Because it comes from the power of the people.

>> But the challenge was held up in court.

>> It was challenged but it was held up.

>> It went through the whole process.

>> Sure.

>> Okay.

where can I find, if I were interested in knowing the experience in san diego -- first, if I were to know the other models similar to this, where could I find that is this.

>> I will ask bickerstaff, he helped draft the petition.

>> Okay.

If I wanted to know the experience of those cities, how way find out how well it worked in san diego, how well it worked in other cities?

>> There are studies that have been done on it and law review articles and a lot of analysis of it.

>> You could help me identify some of those things?

>> Sure, just steve buckerstaff could do it off the top of his head.

>> I'll get with steve and talk to the city attorney and figure out what procedure would be appropriate in getting that information in the hands of the council.

Thank you.

>> Thank you into council member martinez.

just had a couple of follow-up questions for sid you think are you a appropriate after all of this discussion.

Or at least important to put out on the talk.

And sid, the question I have is, as the petition is written, it misgo on the ballot exactly as it is now that the signature drive has started and it can't be changed even if members of agr agree there are some willingness to work on something that we can achieve consensus on.

There's no way to do that.

>> That's correct.

>> And so, I mean, the effect of, we would just have to wait for the outcome and then see if any parts of the process are challenged?

If we get a directive to implement this by the citizens of austin, yet there are challenging components to it, how do you implement something you, one, can't believe we can or, two are, don't believe we should.

>> Why don't ask you a hard question.

[Laughter] I guess there are a couple of ways of going about that.

The simplest to describe is that you wait for a conflict to happen, and decide how you want to deal with it, if it is a challenge by -- would be plaintiff challenging your particular implementation of an aspect of the redistricting process asset out in the new charter provision.

A more pro-active way of doing that is if the council identified what it thought was something problematic, and was uncertain how to construe the provision and what constraints the provision imposed, it could ask a court to interpret that and sort of everything in between.

I think fred was correct that, whether he said it expressly or by implication, a lot of the issues that I indicated were of concern were things that might or might not ever occur.

You might not have a situation where the independent redistricting commission failed to act and put news a position of having to figure out whether that instruction for the city attorney to go to district court and have the district court draw the map was enforceable or not.

It might be that you never encountered a situation where an incumbent minority member on the council was drawn out of his or her district e district, so i think rather than worry about, if it were me, rather than worry about all the potentials for conflicts, I think I would be in a position of waiting to see which one actually came up and then figuring out how to address the issue at the time.

>> Ox.

Thank you, sid.

Mayor, on your item 83, it speaks to other issues outside of the hybrid system it speaks to moving the general election from may to november.

Is the intention of this item to couple that on the ballot?

no, that is already a separate item passed last april.

It is somewhat redundant, i know, but it will be covered probably in several places here, but it is covered separately.

>> It will be a stand-alone item in november?

>> Yes.

>> And does your item speak to term lengths and years?

Even-numbered year elections and staggard terms?

>> Yes.

It calls for a four-year staggard terms to be held in november of even numbered years.

>> Mayor, you think that is a different item into right.

>> So 83, if I understand correctly, says basically 8-2-1, and I guess I need clarification from staff, it said on the ballot 8-2-1 and elections in november, so is that ballot item under this ordinance going to say, if that passes, the election will be in november and then we're also having a separate item that said may or november?

quite a bit of redundancy on the may to another issue.

we have said we wan one ballot item, you do want to move it no november.

we have a council who already placed an item on the ballot that simply says, the city's general elections are switched switched from may to november, period.

Says no more.

>> But if you look part five, ordinance was number 83, it says it shall be held on the november uniform election date so why is it saying that?

>> That was how the mayor wanted it.

My answer is, I don't know.

[Laughter]

>> okay.

We're in good hands here.

So, mayor, was it your intention that the voters would be voting separately on may to november and then this was just picked up, if this passed it would pick up whatever date.

>> My intention was voting separately on may and november and voting separately on even numbered years in november, although that is a little -- that is coupled with the -- that is related to the staggered terms.

>> What if may to november did not pass but the separate item of staggered -- then you have elections in even numbered novembers.

So there is going to be a couple places where the voters choose november if we pass your second item here.

one a generic november and they also further he restrict it to eastern numbered items.

>> I guess I'm getting confused that november is going continue to referenced in more than one item.

when we were setting this up, discussed steiner, even though it is redundant, there is though conflict.

so if the may to november item does not pass, but the 8-2-1 with november does pass, the voters are rejecting november, the only way they can has to 8-2-1 is if they're willing to accept november?

>>Mayor leffingwell: yes.

No, no.

Number 91, I believe says that the voters can choose -- if voters chance to provide that council members serve four-year staggered terms then those elections would occur in even numbered years in november.

>> On the one hand they're going to vote may or november, and on the other hand they're going to vote 8-2-1 and november, so they couldn't have an option of 8-2-1 and may.

that is my intention.

that sounds different than what you just said before.

>>Mayor leffingwell: excuse me.

Are you -- they could vote to have 8-2-1 and have the elections in may if they don't pass the other items.

it says to me with the ordinance in front of us that we are going to achieve that goal of giving them that choice because it seems like 8-2-1 is only coupled with november so is there a way that we could -- there is a separate item that already passed that moves elections from may to -- I many, already passed the council to put on the ballot that is the only thing, item idea of it addresses is moving elections from may to november.

I understand that but your item number 91s, eel eactually talking about your item number 83, thank you.

Item number 83 is the only way to have a choice of 8-2-1, and if, as written and passed, it would be november also.

>>Mayor leffingwell: yes.

so is there something you can recommend as an amendment to what is drafted so that 8-2-1 could stand alone as the only thing that would switch to november would not the item we've already passed that was, says, you do want to switch to november and that's the only thing it asks.

>> That's among the many possibilities.

Right now, the way these drafts are prepared, 8-2-1 is coupled with moving to november it could just as easily be drawn to national ever not make any mention about the month, about the election, but it is as currently drafted, it is one of -- if it were put on the ballot and if the item proposed by item 91 were placed on the ballot, the and if the item you already placed on the ballot remains on the ballot there would be three places where, if voters voted for it, it would switch the election from may to november.

so my question was can you suggest for me a change to item 83, part five, which is where I think that november gets integrated into the 8-2-1 choice.

So that november is, the decision go about november is in in no way tied to the division about 8-2-1, it would strike five.

>> I would make sure to struck everywhere that kneads to be struck but I could easily craft an ordinance -- perhaps easily is not the word, but I could craft an ordinance that would place an item on the ballot, create an 8-2-1 system that was silent as to the month in which elections would be held and the month which elections would be held would thenning left up to a separate ballot item.

>> Okay.

That is certainly my interest.

Mayor, is that your interest in achieving that scenario?

>> My primary interest is in moving election interests may to november, so I can put it in there three times, that's what i want to do.

[Laughter]

>> it looks like you're working on it, I got that.

and you did.

my interest is being able to consider a hybrid system on the ballot and I would like to have that separate from, and in only one place on the ballot just for, to give the voters, you know, the clearest path forward.

there is a couple of courses you could take.

You could submit your own item or attempt to amend mine.

>> Mayor that's why I asked steiner for a recommendation on how I could change, now number 83 could be modified so that november was not -- so it was silent on november.

>> I could take a look at that and show you how I would change this draft to do that.

>>Morrison: okay.

>> We can fix all of 83's problem if you just vote for 84.

[Laughter]

>>morrison: and likewise.

let me for the record state it is not a problem with 83, it is just that council member morrison doesn't like 83 the way it is currently structured.

It is not a problem.

>> Mayor.

council member tovo.

>> I want to be clear, council member morrison you were asking there be an option that you would like to see an option for 91, as well, without a november tie-in?

>> That's correct.

>> So I guess I would just ask the question of anybody who supports keeping november in these items, it would seem to me that you are, if all of these make it and you have a voter who is 100% behind hybrid system but doesn't agree with may and november, you've sunk the other amendments by embedding it in a those so I would just ask the question of why does it make sense to couple the election date?

I mean, I appreciate the interest in moving elections from may to november and fully support it, but linking two different items in that way could lose both.

>> I think we've already addressed that issue.

>> I guess I missed that.

I thought it was the most important thing so I put it in there three times.

>> So you would like to see these go forward to the voters if it passes with one item pa may to november, move the elections may to november, hybrid system may to november, and four years staggered terms in november.

>>Mayor leffingwell: correct.

>> Thank you for clarifying.

any other comments?

Okay.

As we previously discussed, all four of these items will be 00 p.m.

Council member tovo.

>> I'm sorry, I do have another question.

I wanted to t if anybody from the charter review commission would like to speak to this, I would like to talk a little bit about time length, term length, rather, that is one question that has come up in some of our work sessions and i know that it was a question put to the charter review commission and ty, I believe, they did not make a recommendation with regard to thats, so I wonder if maybe co-chair kich cone talk about the course of that discussion as we contemplate the item on thursday's agenda to increase the term length to four year terms.

>> Mayor Leffingwell: The higher turnout, not necessarily increasing term lengths.

>> Tovo: Ok.

We didn't discuss it at that level.

Councilmem councilmem ber tovo.

>> Tovo: I see it would extend the term lengths to coincide with even numbered election years.

Does your ordinance -- proposalled -- proposed ordinance speak to number of terms.

>> Mayor Leffingwell: It does not address the number of terms.

>> Tovo: Would the term limits stay at three?

>> Mayor Leffingwell: They're currently at three and would not be changed unless we chose to change it.

It could be added, however.

Councilmember pro tem and then councilmember martinez.

>> Cole: I'm wondering if you -- butts, I know that was charter commission had a majority opinion on 101 and the 821 and the things we're struggling with.

I'm wondering about the competing items and what potential outcome that may have on the election.

>> You mean in the sense that one item is somehow going to cause another one to lose or --

>> Cole: Any discussions about that?

I think we need to consider that because we've pretty much decided we're going to send something to the voters and going to change the structure and the question is two at-large seats or not.

And the changes we're making, we need to know the implications of that.

>> Well, of course, I think when you look at the city, the city has voted down some form of single member district six times in a row.

Since 1973.

The closest that in a regard was 48%.

>> Cole: On the voting down, there was only one item on the ballot.

>> Yes, only one item on the ballot.

>> Cole: Ok.

>> And -- so that's our history.

Of course, we're talking about having this election in november.

And we've never had an election, a charter revision -- charter revision amendments on the ballot in a november election in which there are going to be somewhere between 250 and 300,000 people voting.

The highest turnout was in 1994 and that was approximately 84,000 people.

So quite a contrast there in that regard.

Obviously, an electorate in general election is different than you would have in a city election.

It's more minorities.

Younger, women.

Women are probably a higher percentage and -- in city council elections.

Interesting enough.

Usually men out-vote women.

That's one of the few elections that happen other than the republican primary.

So basically, I think it will have an impact in that sense in having the election in november.

What happens when you have two competing propositions?

Well, first of all, we have to assume -- and I don't assume this.

I think I know it.

There's 35% to 40% of the electorate that does not want to make a change.

They're basically going to vote against probably just about anything you could come up with.

And so that's 35-40 percent that's locked in in that says, no we don't want to change.

For all the reasons they could have that you could imagine.

Then you have a percentage who support redistricts and a percentage that support a hybrid system.

The majority of the population in the city would prefer to make a change to the system we've operated under since 1953.

With some modifications in 1969.

So when you have that arrangement where you have two competing items of the ballot, one of two things can happen.

Well, the first thing is that the 35-40% of the voters who don't want a change will probably vote against both of them.

Almost without exception and then the two competing groups as the intensity of the campaign progresses, I suspect, will have a tendency to vote against the other proposition and when you have that, it doesn't -- you know, all politics is basically a math problem.

And, you know, it's simple math in this case and, therefore, it doesn't take long before you're getting above 50% and so if you have this kind of crossfire between the different amendments on the ballot, there's a strong probability that, you know, both could go down.

I heard, you know, when I was on the charter revision committee, I heard from people who were supporting single member districts and when I asked if they would support a hybrid, they said they would rather have the at-large system than have a hybrid system.

If that kind of attitude prevails, then it's probable you'll still have at at-large system with seven members.

>> The unknown is because of a large turnout we're going to have.

Therefore, more african americans, more hispanics, and more younger voters voting -- i mean, as an example, probable in the -- probably in the city election we just had, the hispanic and black vote, somewhere between 15% and 17% of the total electorate in the last city council race.

In the presidential race in the city of austin, it's probably going to be over 30%.

That's quite a difference.

Younger voters, if -- you look at who votes in city elections on age bracketing, probably they're not even one out of -- they're not even 15%.

But probably in this election they're probably going to be over 20% of the vote will be under the age of 40.

>> Cole: Let me ask you another question in urinals.

>> Yes -- in urinals.

Your analysis.

The city will have a lot of issues on the it, this and the school district and central health, does that affect analysis at all in terms of messaging, not messages as much as competition.

It seems likes this something that would be the only thing we go to the voters on and the city is all rolled up.

But now we're going to have eight things that we're trying to communicate.

Do you turn off at some point and say I don't want to deal with that?

>> There will be a dropoff.

Even though I think they're top partisan ballot.

Many voters will be surprised when they walk in, thinking they're voting on the presidential race only to discover that all of this other stuff is on top.

City council, for the city council, but acc, school board, city bonds and city charter amendments.

They'll be like, whoa!

What is all of?

You'll have a dropoff, 10%-15% of the electoral will choose to skip over that.

That's not why they're there.

They're there to vote for the president, probably.

And all of this other stuff, they don't have any idea and any campaigning that's done for these kind of ballot items is going to fly right over their head.

They may choose to vote anyway, but they're not going to know this is waiting for them.

No matter how good of a campaign.

Unless somebody has a lot of money.

So, you know, that's the problem, you'll have some dropoff.

This will tend to be, candidly, younger voters and probably minority voters.

And the older voters will vote in all of these items, that's the tendency, quite candidly, whether they're black or hispanic or anglo.

They're going to vote.

So they'll be disproportionately represented in this part of the ballot.

In my judgment.

What that portends, of course, probably what it important tends probably the most resistant group to changing the system will be senior citizens.

So, therefore, that might give the I don't want any of this faction a little bit of an edge.

You know, I'm assess tag from just the way I've -- assessing that from the way I've seen it in the past.

>> Cole: Thank you, mayor.

>> Mayor Leffingwell: I believe councilmember martinez was next.

>> Martinez: I had a question for john.

He was moving off -- I think they have questions for you.

>> Mayor Leffingwell: Ok.

>> Spelman: Let me run this past you.

40% Of the people, let's say, don't want to change anything.

They're happy with the way things are right now.

>> A little less.

In that range, yeah.

>> Spelman: Say it's 40%.

That's 60% of the people, a solid majority who want to change something unless all 60% of in favor of some form of single -- we put two on the ballot.

One is a hybrid and one is a channel one.

That splits.

30% For the hybrid and the 30% for the pure single member system.

If 80% of the people who want a hybrid will still vote for pure single member districts and 80% who want single member are willing 0 vote for a hybrid and I think that 80% is a little too high.

But let's say it's 80% then both go down in names and we keep things the way they are.

And if we put two things on the ballot at the same time where either two of them can get over 50% -- I'm simplifying the living heck out of the math.

But the general idea is right.

The vast majority of people who support one plan have got to also be willing to vote for either of the two of them to get over 50%.

And that suggests to me if we want single member district, putting two plans on the ballot which could be construed as being competing plans, unless we can find a way to get more than 80% of the people who are willing to live with either of the two of them to vote for both is simply shooting ourselves in the foot.

I wonder how you respond to that.

>> Well, anecdotically, what i the voters who are supporting change, whether it be single member districts only or a hybrid system obviously if you have only a single member district system on the ballot, everyone who is for that is going to vote for it.

The people who are supporting some form of single member districts and a fixture of at-large, have less of a reason to vote for simpling member districts.

Single member districts and, therefore, less likely to do so by a higher number.

Simply because the component that draws them to voting for a hybrid system is not there.

Obviously, part of that electoral rat will vote for single member -- electorate will vote for that because they want to make a change but there's some who say I don't want to make that change that far.

What that percentage is I can't tell you but I suspect it's not insignificant.

So if you have a situation where 35-40% of the electorate is voting against everything, and you have a proposal that basically has a weak attraction to the other bloc of voters, then you run the risk of losing that.

>> Spelman: Because the attraction is too weak?

>> Conversely, some single member district will vote against a hybrid system because they see it as a continuation of the at-large system and for whatever reasons they have they feel needs to be eliminated.

But on the other side of this -- this is self-serving on my part, but it's my assessment -- is that a hybrid system which has a component of single member districts has something to attract people who support single member districts so, therefore, probably a disproportionate share of them, not all, might be inclined to vote for a hybrid system.

Quite frankly that's the logic that has guided my decision to support.

I've supported both.

All districts and I've supported hybrid through these six elections but my conclusion is to win, we need to follow the middle path and the middle path would lead to us this change and revolution in the way we govern ourselves if it turns out that single member districts are wonderful and we discover that, then the council can come at another time and propose all single member districts or more single member districts and as we grow as a city it would make logical sense we would want more districts but I would suggest to get past this first hurdle, take a middle path.

The voters may say we don't like this, they may love it, I don't know.

I can guess, but don't know.

>> I would add that the thinking that David articulated about the -- you know, the voters being more likely to vote for a hybrid is the kind of discussion those of us who supported the hybrid had and that represents the thinking of the other members on that charter committee that supported the hybrid.

>> Mayor Leffingwell: Other than the discussion of those who ended up supporting a hybrid and maybe some other members of the charter --

>> Spelman: But prefer a pure system.

Is there any empirical evidence taken from this city, other cities to suggest that a hybrid system would be more successful at the polls, I can't cite recent elections.

I know fort worth has all single member districts.

Dallas has all single member districts enforced upon them by a court.

But the distinction and it's one that I have studied carefully and did research for dave richards.

His study on pollized voting in austin and the polarization that exists, say in dallas or even in houston where they have a hybrid system.

A 861, the polarization there is real.

Blacks vote for whites.

Whites for whites.

Hispanic don't vote for blacks.

I mean, back and forth, this kind of thing.

It does not exist in a significant way in austin.

It exists, certainly, but it is not the kind of pronounced polarized voting, you know -- if it were so, we wouldn't have had an african american and hispanic on the city council since the EARLY '70s.

We just had a county commissioner's race in precinct one where there were three african americans and one hispanic running.

Where the and I glow vote in the -- anglo vote in the democratic primary voted for the black candidate.

You know, 40% or more of the vote of the democratic primary is white in precinct one yet there were no white candidates running.

If there was polarized voting, you would see a white candidate in the -- in southeast austin, in the hispanic district.

>> Spelman: We don't have the same level as in other texas cities.

Does that speak to whether a hybrid system would get more votes than a pure system?

>> You mean in the sense of turnout or what do you mean by that?

>> Spelman: We have two runs at this.

Run one, a hybrid system.

The only thing on the ballot.

Alternatively, we could flow a only a pure system on the ballot.

Which of those two would get the most votes.

>> Single member districts has an appeal in that people feel this is democracy at their doorstep.

And therein, has an electal -- elect oral appeal.

So not to be dismissed.

On the other hand, what's going to happen with single member districts you'll only be able to vote -- and voters will understand this, they can add.

They can only vote for two councilmembers.

Now it's seven.

They'll only be able to vote for two.

A hybrid system gives you four.

Under the 821.

I can tell you if I offered those two proposals and I say would you like to vote for two or would you like to vote for four, I can tell you where the majority of voters will come down.

They want to vote for as many of you as they can or vote against you, as the case might be.

[Laughter] so I don't think -- each has its strength, there's no doubt.

The neighborhood people, the neighborhood associations will see single member districts as a real boom to their being able to impact the decisions that the council makes.

Whether that turns out that way, often what you think is going to happen is not what happened.

But small see it that way.

But we're talking about 250,000 to 350,000 people voting.

That's a tear drop in the ocean.

So really what people want is to be -- in austin, they want to be able to vote on as many people as they can 'and vote on the issues.

They love to vote on the issues in this city.

And if you deny that, and that's one of the reasons I would say, I mean, I think, you know, if hybrid -- if the single-member district man were to fail, to get the number of signatures -- I don't think it will, but if it were -- I think you'd have to seriously have to consider putting it on the ballot.

I think the hybrid plan should be on the ballot to give the voters a choice.

They don't like to have their choices taken away from them.

They like to be able to make the choice.

I know that for a fact.

>> Spelman: Even though we can anticipate in advance if we give them the choice and they take advantage of that choice, they're not going to get what they want.

>> That may be the case.

It depends on how the campaign unfolds and once again, I don't discount the intelligence of the voters.

They can figure out what it is they want.

But there's that risk.

But both signs line up in front of each other and -- both sides line up and start blasting each r.

The on group that benefits are the people that don't want change, period.

That's the only beneficiary of that kind of approach of a campaign.

>> Spelman: I understand that.

Thank you.

>> Mayor Leffingwell: You thought it was best to have both the hybrid and pure system on the ballot?

>> I don't think that myself.

But from the point of view of that.

That many people sign a petition who say they want to have this on the ballot, I think that's a fair thing.

>> Mayor Leffingwell: We don't have any choice about that.

>> I understand, I understand, but in case there were to be some failure mechanically, in the sense of the way that the document was written or something like that, it ought to be presented to the voters because I think the voters like having a choice and they would be disappointed, you know, not having a choice.

They've heard about single-member districts and heard a little less about hybrid but I think they definitely like choices.

>> Mayor Leffingwell: One step further, I mean, the argument -- you hear all the time, if both of these things are on the ballot, they're going to fail.

But based on your very interesting discussion, it dawned on me that whether or not they're actually on the ballot, there are people as you say, start off with 35%, 40%, who are going to vote against any kind of system, so that leaves a majority of people that are potentially in favor of district representation.

>> Yes.

>> Mayor Leffingwell: And let's say, again, judge these are kind of evenly split, these two groups would like to see -- are people who would support a hybrid system that -- that remaining percentage, are they likely to say, ok.

If it's a pure district system, I'm going to vote against it?

See what I mean.

>> Uh-huh.

>> Mayor Leffingwell: Or take it the other way, or the people who -- for a pure system, whether or not the hybrid is on the ballot, if -- I mean, let me get this right.

People for a pure district system are not going to vote for a hybrid system even if the pure district system is not on the ballot.

So how does that line up?

It seems to me intuitively, but I don't have data to back it up.

But people who were for a hybrid system because they have reservations about taking that big leap would have a tendency not to vote for the pure district more so that way than the opposite.

>> Precisely.

What I said was that because the hybrid has both elements, therefore, a more attractive vote-getting -- vote catchers, whatever you call it, then the one which has only the appeal of a single member districts.

There's a certain amount of the population who want to vote for more people.

>> Mayor Leffingwell: Summing it up to say, in your opinion, that the hybrid system has a better chance of passing than the pure system?

>> Yes, in my personal opinion and the polling I've seen.

The hybrid system is more likely to pass than the single member district system.

>> The I black friday is one plus and solves the problem for those constituents geographically dispersed that the single -- it's only one piece.

>> Martinez: Mayor.

Councilmember councilmember martinez.

>> Martinez: I want to make some points and I don't necessarily disagree with the comments or prediction of outcomes but we seem to be ignoring the fact there's a strong citizen-led movement to put a item on the ballot and I think there has to be deference to that as well.

To me, that's not the debate we're having --

>> Mayor Leffingwell: Always a hypothetical.

>> Martinez: It is, and that's fine.

What I'm trying to do is have a conversation in reality and the reality -- we had a process, we had a recommendation and now we have a citizen-led initiative that is going to ask us -- demand us, to put something on the ballot and I think david is right.

I think the voters are smart and I think if we put a competing measure on just because we want to give people a different choice or different option, i think there will be more backlash than anything.

Because it will be viewed as this council not respecting and recognizing that work that went into that petition drive and all of those citizens demanding that that initiative be placed on the ballot.

>> Well, that's assuming that you think that the -- that having single member districts preempts any action you choose to take.

Somehow responded in a negative way.

And candidly, I don't think that's so.

I think a majority of voters like choices.

>> Martinez: Especially when they didn't like the choice before them.

>> If you were doing something to undermine their ability, by putting a competing smd on the ballot and put it on there, yes, the voters would take that badly.

But putting alternatives -- I think quite candidly, that people of Austin would expect the council to use its prerogative to decide what it thinks.

You know, the charter revision committee, you appointed us.

I was a mayor's appointment also and there is a diversity of opinion on that.

It was pretty evenly split.

My personal opinion is if you want to make the change and to me, I deal with the reality every day when it comes to politics.

Not necessarily what I want, but what is possible.

And what's possible in my judgment is to make a change after 50 years of this, is to put forward a hybrid plan and that plan stands a very good decent chance of passing.

I do not think, in my opinion that smd will pass.

It's not to say there's not a lot of support and a lot of enthusiastic people.

But we're talking about 250,000 to 300,000 people voting in this.

It is a vast cosmos of voters.

>> Martinez: Let me ask you, David, since you're here, if the council chooses not to put a hybrid plan on the ballot in November, what will be your position be?

>> I would have to oppose it.

And I would oppose it for the primary reason, I think there are inherent flaws within a single member district system and I think are balanced by a hybrid system.

There's no guarantee of any of this, of course, because we can have terrible people elected to office and they can make a total mess of a hybrid system just as easily as a single member district system.

But we have to assume that the law of averages will play somewhat in our favor and we'll get at least five or six out of that 11, so we hope, anyway.

[Laughter] so basically, you know, we think that -- I think that single-member districts by itself is probably too much of a step -- too much of going from one extreme to the other for the voters.

Going from all at-large to all single-member district and increasing the size of the council, which both plans to do is another negative factor.

I've had many people say to me, you want 11 of those people up?

There really?

You know, isn't seven bad enough?

So -- [laughter] -- so I think that we have to -- you know, my -- my look at these things, what can we do to change the system?

So what is going to be the most reasonable approach to getting the change.

If -- my opinion is if single-member districts is a great thing, we have eight of them, what's the difference between eight and 10?

Two.

In the future, when this city reaches a million people, which it will, sooner than later, then I would say look at adding, you know, put a trigger mechanism in the proposal to increase it to 10.

That comes with somewhat of a handicap, but at least it addresses the idea, well, we'd like to keep districts to 100,000 people as an example.

A little more manageable.

Therefore, you can look at that as a possible alternative, a way to get to 10, eventually, but once again, the voters may not want 10 after they see how single-member districts work.

Even under the 8-3.

There's going to be inherently, I mean, what's the nature of politics?

It's factions.

Politics is factions.

Groups of people who align with each other and align against others.

Sometimes that's a temporary thing and sometimes that's a permanent thing.

So, you know, that's -- there's struggling in politics.

You all have this every week here in your own arrangement.

>> Martinez: Right now on this issue.

>> Right.

[Laughter]

>> but there's a natural attention I think between the at-large and the single-member strict.

The at-large it is has to be responsible to the community on a whole.

And the single-member district representative is responsible to his district.

He or she may have a world view and may see the world, we're all in this together.

All got to move forward and -- but what's the hardest thing for any politician to do?

Is to tell their constituent,s, the one who vote for them, no.

So basically you get into a situation where they're going to be -- there's going to be this attitude, well, I'm taking care of myself and my district and you take care of your district.

That may be wonderful.

It may not be wonderful.

We need people who aren't necessarily worried whether or not they get an appropriation for their district to say, well, we don't like what you're doing in southwest austin.

You need -- we're going to oppose that.

And they don't have to fear, well, I'm going to vote against your propose or whatever it is you want in your district.

We're going to have some of that under any system if we have a single-member district system.

I don't care what they say, it will never happen.

Of course, it will happen.

It happens in politics all the time.

So build in -- there's a natural tension, if the people that are at large and single-member district, there'll be some of that friction and that's not a bad thing inherently, in my judgment.

It's going to occur, so -- you know, I -- that's why I think we need to -- we need to -- two reasons: one, hybrids will win.

Can win.

Don't guarantee but can win.

And secondly, I think it's a better way of governing.

Until at least we see how single-member districts work in austin and I certainly think it has a place, because there are parts of austin that do not get representation.

Southeast austin, far north austin.

Because of financial or social connections that is required to get elected to city council, or things of that nature, it's harder.

You have to have resources, either yourself or some backers.

Who are going to finance you.

To do this.

And you know, and that's harder in areas that are in a lower socioeconomic -- so this is a way of giving them an opportunity to elect someone well, I like him or not.

It doesn't matter.

They'll have an opportunity to elect someone from southeast austin or north austin.

>> Any more questions.

>> Martinez: I had some for john and sabine a.

>> Spelman: I did see -- fred?

Will you come up a second.

I wanted to follow up while you're here.

One of the things we were butts about, i really hadn't thought through was this concept of polarization, I don't think any of us want to see our city become polarized --

>> Cole: Than it can be.

>> It isn't, and I think what we've gotten away what the charter commission has been talking about.

When we talk about single-member districts and awhen we had the young came across with asian-americans and how did we elect an asian-american?

You build coalitions.

>> The reason hispanics across the state have been able to get elected at the state level, the state rep level and even the senatorial level, it's because they work with each other.

As far as single-member districts when you start getting away from what we have right now, and what we have is not working, during the commission meeting, overwhelmingly everyone who came to testify -- agreed there are people not for the single-member district.

But the people who came, over 90% were for [inaudible]

>> Cole: The on comment I would make, I agree with david that austin is not nearly as racially polarized as other cities in texas.

In that african americans do tend to support a lot -- many, many himself candidates and vice versa, and you see white voters do the same.

And I don't want us to jump u jump to any type of -- jump to any kind of change without that conversation and I wanted to be sure you had that conversation.

>> Absolutely.

The thing is with latino, you have 40,000 voters deciding who gets elected to a council, instead of in a town of registered voter, where the population is 800,000.

So 40,000 are -- all we're asking, hey, you should have single-member districts.

I mean, I would rather run -- david talked about the economics of running -- in the district of 80,000 voters than one in 800,000.

I think you all would agree on that.

As far as keeping a hybrid, we talked about that, even to the end, we talked and fiddled with it, maybe making a compromise and at the time, we said, well, I think we're going to go ahead and let this run its course and we didn't know who was going to win.

I think there was one swing vote and that gentleman is from --

>> oak hill.

>> Oak hill, and he decided to vote in favor of strictly single-member district.

But that's like what councilmember martinez said, it was the majority.

And that's where we -- what we came to.

I think that we can't lose sight of the fact that the council appointed a committee and the committee came out with a recommendation.

There's a petition the citizens -- a citizens-driven petition that has 30,000.

They have enough votes.

Those will be presented on thursday.

>> Cole: Well, we don't have much time left --

>> thank you for the opportunity.

>> Cole: I appreciate for your service on the committee and coming down today.

Councilmember martinez had questions.

>> It goes back to your question earlier, they're going to turn them in on thursday, so more than enough time to work on ordinance language and get that squared away.

>> MarJOHN, I ASKED THIS Question the other day in a meeting with mayor pro tem sheryl cole.

And it's probably a moot point.

Gets on the ballot and dies.

Let's just say that hypothetically, a hybrid and/or or a single-member district plan passes, we have the commission that draws the line and get the districts drawn, the way the charter currently reads as it relates to term limits, councilmember cole and I are term limited and would be precluded from running from a at-large system because we just started our third term.

>> The way the term limits works in the charter, essentially applies term limits to two -- in two ways.

One is to anybody who serves in a position of mayor for three consecutive terms.

And the next paragraph, anyone who serves three consecutive terms in a position other than mayor is term limited.

And if you look at the way this is written now compared with how it was written before the 2006 bond -- I mean, charter amendment election, the -- the idea of the 2006 amendments was to make it not possible to avoid term limits by switching seats.

So under that interpretation that if you serve in any position other than mayor for three consecutive terms, you're term limited.

Unless we touch that in some way in a charter amendment, members --

>> Martinez: I'm not suggesting, I just wanted --

>> members would remain term limited when we went to districts.

I think it's worth pointing out that you might want to consider if we go to a hybrid system, the fact this does not address the middle tier that would create.

The -- right now there are two kinds of councilmembers.

The mayor and all the others.

And if we want to a strictly single-member district, there would be still only be two kinds.

Mayor pro tem -- mayor and councilmembers regulates elected from the districts but the hid black friday, there would be the mayor, the at-large and the district members and so you might want to -- but a mechanism for people who were term limited in districts could move up to the tier of at-large without being term limited and people who were term limited in the middle tier could then again run for mayor and that would be so that you would want to consider addressing.

>> Martinez: So in the ordinance that the mayor and councilmember riley have, it doesn't speak to term limits in a single-member district and term limits in an at-large seat.

>> None of the drafts I've been asked to work on have addressed term limits.

>> We're keeping the option to run again by petition.

>> I see.

>> The current charter provides an exception where you can seek petition signatures and so councilmember martinez, I wanted you to know there's a current exception to that.

>> Martinez: Yes --

>> and indeed, only applies to consecutive terms so if you sat out a year.

>> Martinez: In the case of councilmember Spelman, he just started his third term but it's only his second consecutive term so he's eligible for a third run.

>> And any member of the council can reset themselves by waiting out at least one year, depending on how many years you go to.

One or two years.

Depending on how we eventually end up.

If you have sat out an election then you could run again because your terms wouldn't be consecutive.

But it is something that you might want to consider the policy of whether or not it's something you want to address.

Particularly if you decide to go to a hybrid system because you would be creating the third tier of council that doesn't currently exist and wasn't anticipated when any of this was written.

>> Martinez: And do we anticipate -- I guess you're the appropriate ones.

I don't see anyone from budget.

Do we anticipate a fiscal note -- I think the citizens want to know, if I vote 10-1, or 8-2-1, what is the practical reality what happens to our budget.

>> We've talked about that some, I mean, obviously, you're talking about more members, we're going to have to do things in terms of, you know, council staff, office space, those kinds of things.

I mean, we haven't thought it through substantively, but obviously, there would be an added expense.

You've got to think about the council chambers, but you have more members and we have to do something to accommodate the additional numbers than -- members and that would have an obvious cost.

But the answer to your question, it probably would make sense to have some sort of fiscal.

>> Martinez: The simple math, the 245 that's allocated and multiply that with whatever plan you're supporting but there's ancillary expense, computers and office, and if we can get a ballpark.

>> If you think of it in terms of additional staff and office space, that might mean some people in city hall today can't be in city hall.

>> Martinez: Sorry about that, mark.

>> Pardon me.

>> Martinez: Sorry about that mark.

>> It's ok.

[Laughter] can we solve volunteer to not be here.

>> Mayor Leffingwell: It's required in the notice of the election that we include a fiscal.

So that's an exercise that will have tobacco to be done.

>> Cole: I believe councilmember morrison has a question.

>> Tovo: I do.

Probably not for.

>> Morrison: There's a burning issue that we haven't discussed and that is, well, we're sort of talking about 10-1, maybe 8-2-1.

Eight, 10 districts and one of the issues that comes up is are eight districts enough to have a good chance of fair african american choice and representation and I wonder if you can speak to that specifically where we would get to with eight and where we would get to with 10.

>> The answer I'm going to give you is an estimate.

It's for the definitive.

I haven't sat down and drawn optimized plans for either district model.

So I've made an estimate in a sort of approximate way.

The sort answer, the starting point for the answer is there are too few african americans of voting age in the city of austin to constitute an majority in even an optimally drawn district for either eight or 10 member district plan.

So the question devolves whether or not there's a meaningful district in whatever you would characterize as an opportunity for influenced district, and ballpark, the difference between an eight-district system where the districts are going to be a little larger than in a 10-district system is probably of order 26%-ish in an eight-district system versus 29.

Maybe 28, 29 in a 10-district.

>> Morrison: Of voting -- registered population.

>> Voting age.

>> Morrison: Voting age.

>> But the caveat, I haven't look specifically to see and i don't know how you would figure it out, because the secretary of state does not maintain racial or ethnic voting classifications.

We know something of hispanics because of something that's called the spanish surname registered voter name which identifies registered voters who may be hispanic.

It looks at names that are typically hispanic names.

It leaves off persons who are hispanic but have anglo names.

Or persons -- and is over-inclusive of anglos who have hispanic names but that's a different story.

We have a little bit of an estimate there.

Whereas, for african americans we don't know what the registration is but it's high.

>> Morrison: En so in terms of voting age population, probably end up with 26% african american in eight.

>> 25, 36 Percent.

>> Morrison: What does that tell you about likelihood of -- of legislating an african american from a district that has 26% or 29%?

How much different is it?

I guess that's the real question.

>> That's a complicated fuzzy question.

The lore is, because african americans register in high percentage and turn out in a high percentage, you don't often need to have a full 50% voting age population of african americans in a district for it to effectively perform as a predominantly african american district to elect members of the african american communities' choice.

How much less than 50% is a little bit of lore, but there are some data that suggests it's IN THE HIGH 30s SOMEWHERE.

So your question is kind of how CLOSE TO THE SORT OF HIGH-30s Number, which is in itself fuzzy, do you need to get before there's a meaningful difference between 25% and 29%, forsake of argument.

The answer to that question is also complicated by the fact that in austin, the area of town where there's the largest concentration of african american voters is in the northeast part of town, is also an area that substantially hispanic.

Any district you draw there is going to have a sizeable component of both those minority groups and the next complication is, in austin, as most cities in texas, there's a relatively high non-citizen rate among hispanic adults.

The citywide estimate for non-citizenship for hispanics is high, it's.

Higher in dallas and houston where it approaches 55% or 60%.

>> Morrison: You're saying overall --

>> roughly expect 65% of adult hispanics are citizens.

When you try to figure out the non-citizen component of that area of town, and the district you would draw in that area of town, it has the effect of reducing the number of potential voters, which has the corollary effect of increasing at a relative level the effective voting rate and registration rate for african americans.

I don't know how to quantify that.

The citizenship data this time around is insufficiently detailed to let us really do that.

But it will make a -- an effective -- guessing here, 4%, 5% difference in the value of that 25% or 29% number.

It might enhance it 3%, 4%, 5%, and in that sense, anecdotally, not quantitatively, not a hard and fast calculation.

Lots of caveats.

Will get you closer to the MYTHICAL HIGH 30s NUMBER That's required in the lore to be a effective african american electing district.

>> Morrison: But the bottom line, we're starting at a 3% difference between eight --

>> 3% or 4%.

>> Morrison: And by the way, you never say anything without a caveat, you're an attorney, that's your job.

>> I know you'll hold me to it.

>> Morrison: One related question, I have heard in the community discussion about this topic, 8-2-1 has proven to be unacceptable in Dallas, or something like that.

Could you provide some insight into what might have prompted someone to say that and whether there's valid to that?

>> There's a case from 1990-ish, called Williams versus the city of Dallas, where the 8-3-1 system was challenged under section 2 of the voting rights act that says thou shall not discriminate and says in effect, that you can't pack minority voters into districts in order to minimize their voting strengths.

That is, the ability create another majority system for them and you can't split them up in order to avoid them from having a majority district.

That's called fracturing.

And the 8-3- the system did both of those things.

Packed 85% or 95% African American voting population into two of those districts and in the split, the remaining African American population in two or three of the other districts and so had the effect overall, the court found, of minimizing African American opportunity disproportionately to what could have achieved.

Himself also challenged the plan and both Hispanics and African Americans argued -- Hispanics also challenged the plan, that the difficulty of raising significant money to handle, put forward, a viable campaign in Dallas, prohibited them effectively from legislating candidates of their choice to any of the at-large spots and the court credited that argument and held a section 2 violation on that basis as well and struck down the 8-3 plan.

Your question is why is that court result applicable or not.

And in this case, not applicable in Austin.

>> Cole: Since you answered the question, we're supposed to stop at 4:00 and it's almost 4:00.

We have yet to do the Austin taskforce.

00 and I know that councilmember Spelman still has other questions of this group.

So I'll keep going, but when we lose a quorum, that's just the situation.

>> Morrison: I can stay.

>> Cole: Ok.

Councilmember morrison.

>> Morrison: Short version.

>> Austin can be factually distinguished.

We have a large historical success, not just city council, but the other jurisdiction, travis county, the acc, in electing minority members both at-large and single member districts and not necessarily single-member districts that are minority district so I think that's very distinctive.

And the other peat piece of the argument, there are a limited number of -- your ability to draw additional minority districts is limited and in my opinion, not materially different as between the two structures.

>> Morrison: Ok.

Thank you.

>> Cole: Thank you.

Councilmember spelman.

>> Spelman: A brief follow-up to that.

You talk of african american numbers and 26, 29 doesn't sound like a big difference.

That is only for the one district which is most likely to elect a african american candidate, is that right?

>> Spelman: Can you give me with as few caveats as possible, the likelihood or number -- expected number of hispanic candidates elected between a eight-district setting and 10-district setting?

>> I have not drawn exhaust ily a district plan.

I've drawn one and my goal was to draw comparable strength districts in the southeast part of town.

I think you can draw two nominal hispanic districts in the southeast part of town of voting age and a third one in the north part of town which unfortunately overlaps in the african american part of the population.

So it's not an optimum kind of drawing.

Both of those, I think, all three of those districts are of order about 52%.

The non-citizen component, though it may be larger in the north than in the south, is going to reduce all of them below a true 50% citizenship voting age district.

The other I haven't drawn but i have a sense of, it's possible to draw a good strong district in the southeast and then a weaker district with what's left over.

And that the distribution of hispanic non-citizenship included this the north probably mean that is district is very unlikely to be a viable district.

My suspicion is that the rate of non-citizenship is higher in the northeast than the southeast.

I don't know quantitatively how much different.

I think the result is going to be ballpark the same for a 10-district plan as a eight-district.

Because the districts are smaller, the percentages will go up and in turn, reduced by the non-citizenship factor.

>> Spelman: So --

>> but it won't be an additional district as between a eight-district and a 10-district approach.

You won't get a fourth district out of that.

>> Spelman: Talking both the eight and the 10 with relatively small differences.

Three minority group members likely to succeed in each of them.

Maybe a little higher probability of success in the 10 than the eight.

And whether --

>> and it might be two.

>> Spelman: Whether two are hispanic or all three is up for grabs.

>> Depending on how you draw the northeast district.

The hispanic and african american population there overlaps.

If you draw a predominantly hispanic district, you'll draw a different -- include a different area than if you're trying to draw as strong an african american district as you can.

>> Spelman: Right.

>> So one uses up some of the other's population in that district, whichever it is, and leaves less for the other group's district.

If I draw a strong hispanic in the northeast, I'll use some of the strong african american district because it's got overlapping population and that will not lead it -- leave it to be included in the remains district for african americans.

And vice versa.

It's a overlap problem.

A practical problem how you draw.

>> Spelman: Fair enough.

Where the plurality is going to be white.

>> Let me qualify that.

I won't use a caveat.

Just qualify.

Neither of -- going -- it may be a meaningful opportunity district.

Given the uncertificateties, it seems that the non-citizenship value in the southeast will reduce your ability to draw two even nominal majority hispanic districts and so you have to make a strategy choice.

Do you draw two roughly equal ones or do you draw one stronger one and one lesser one and if do you the latter, you may only get one performing hispanic district.

If you do the former, split it either, you might -- split it evenly, you might get neither.

Other than austin has a huge history of crossover voting.

>> Spelman: Exactly.

And everything is just slightly improved by going from eight to 10.

But it's not an important difference.

>> I don't think it's a huge difference, no, but does make some difference at the 3%, 4%, 5% level.

>> Spelman: So 38, 42, those numbers?

>> Wouldn't pick those numbers.

>> Spelman: Which numbers?

I won't hold you to the exact numbers.

>> 52% To 56% or 57%.

>> Spelman: So going from a bare majority to and a fair margin of error.

>> And that does not factor in non-citizenship.

>> Spelman: But the best case is -- well, it's three minority districts either an eight or 10?

>> Pretty much, yes.

>> Spelman: Gotcha.

Ok.

Thank you.

>> Cole: Thank you, anyone have questions of this crew?

>> May I add one more thing to fully answer.

There's one provision in the 10-1 version that provides that in the transition, the transition is -- account old council ends and new starts.

In the 10-1 version provides if you get a short term either because the term is cut short by the transition or you draw a short term in the staggering -- drawing lots for staggering, that doesn't count against you in term limits so it's possible that one term -- a term that's shortened either on the back end or front end by the transition will not count for term limit purposes.

That's in one of the drafts.

>> Cole: Thank you.

Let's move on to the lake austin taskforce item.

Councilmember morrison, walk us through it.

>> Morrison: Well, you know.

We have a couple of appointments to make, I no that councilmember tovo was the lead on this.

Would you like to walk us through this.

>> Cole: Absolutely, councilmember tovo, sorry.

>> Tovo: It doesn't make any difference.

My interest in talking about this today was to make sure it was on everybody's agenda that we're scheduled to appoint taskforce members on thursday and if there are -- anyone wants to volunteer who they're selecting, that would maybe help the others who are still deciding make decisions.

And I want to say, I think -- i was pleased when I looked over the list to see the breadth of knowledge and interest.

And we have good options and to remind you that staff also presented a list of technical efforts they were recommending for our consideration.

I know we had a spirited discussion about this.

And I have no interest in repeating that.

[Laughter] but we have those options as well and we're each being asked to nominate a technical expert and resident of lake austin.

I'll throw out there that my nominees will be carol lee from -- and you'll see her bio from the list of applicants that we have in front of us.

She served on the parks and recreation board and basketball a -- I'm getting a -- anyway, has been a leader in this effort and one of the reasons we have this taskforce forming at this point and andrew hawkins will be my nominee as a technical expert.

He's a attorney in private practice now with great expert he's in -- expertise in water issues.

And with that, I'll throw it out for others to ask questions or --

>> Martinez: Do we have to do the appointments this week?

Is there a sense of urgency.

I don't know if anyone wants to meet in july.

Gives us time if we don't take action until august.

>> Cole: I'm perfectly fine taking action august.

But --

>> Martinez: If there's a sense of urgency, we'll plow through it, but I want to go through the list and make sure we can talk in a work session about rounding out the committee.

As best we can.

>> Morrison: Did we impose an schedule or did we have goals for getting back to us.

And I don't recall what those are.

Do you?

>> Tovo: I think we did ask them to report to us with a scope of work by september 30th or something like that.

So there were timetables and i think the intent initially was to make sure they start during summer so they have some opportunity to see what the usage is like out there on lake austin.

So, you know, I'm of two minds.

I want us to make good decisions for commissioners for this group and if we need to take more time to do that, then -- you know, so be it.

We want to see where we get to on thursday, if -- and take it up again on thursday, that would be --

>> Cole: Discuss this on thursday when the item comes up.

But you have notice that some councilmembers are requesting that.

>> Tovo: What was that.

>> Cole: Some councilmembers would like additional time to make a decision, and I support that, but we can wait until thursday and you can see if we'll postpone the item.

>> It's a standing item.

I do think, now that you mention it, it makes sense to get it formed in the summertime, to have a usage period and if we don't appoint them until AUGUST 2nd, THAT'S GOING TO Create somewhat of a challenge because we have to count on it taking a couple of weeks for them to coalesce and find a meeting date and also, I would say that if it's possible, it would be good, you know, if we can get it formed, thursday, i think that would be a positive thing.

>> Cole: Let's aim for that and make a decision.

>> Tovo: Good --

>> Cole: And --

>> Morrison: Let me mention in terms of the resident, the one person that I zeroed in on.

Her name is pam and actually lives on an old family rampager there and that's a good perspective to have on that.

Other people --

>> you said merfin?

>> Cole: Right.

Any other further discussions and comments.

Without objection, this special work session of the austin city council is now adjourned.